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GOLDEN PACIFIC NATIONAL BANK

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ORIGINAL

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HEARINGS

BEFORE THE

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS
SUPERVISION, REGULATION AND INSURANCE

OF THE

COMMITTEE ON
BANKING, FINANCE AND URBAN AFFAIRS
HOUSE OF REPRESENTATIVES

NINETY-NINTH CONGRESS

FIRST SESSION

JULY 31 AND AUGUST 1, 1985

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GOLDEN PACIFIC NATIONAL BANK

WEDNESDAY, JULY 31, 1985

House of Representatives,
Subcommittee on Financial Institutions
Supervision, Regulation and Insurance,
Committee on Banking, Finance and Urban Affairs,
Washington, DC.

The subcommittee met, pursuant to call, at 10:10 a.m., in room 2128, Rayburn House Office Building, Hon. Fernand J. St Germain (chairman of the subcommittee) presiding.

Present: Chairman St Germain, Representatives Annunzio, Barnard, Schumer, Cooper, Manton, Wylie, Leach, McKinney, Shumway, McCollum, Wortley, Dreier, Parris, and Roth.

Chairman St Germain. The subcommittee will come to order.

This morning we open hearings on the failure of Golden Pacific National Bank on June 21—an event that has had a sizable impact on the Chinese-American community in New York.

In recent years, banks have been collapsing in such record numbers that few are even noted in the financial obituaries. But, the loss of a bank can be devastating—traumatic—for local communities and neighborhoods.

The last time this committee convened to look at a failed bank we had the massive Continental Illinois National Bank before us—with Federal life lines strung across it like a giant web. No subsidy was too great, no assistance too expensive.

In the case of Golden Pacific there is no evidence that any of the Federal subsidy tools were brought out to prop up the bank—not even for the purpose of giving examiners 1 extra day to try to unravel the assets mystery at the bank. In retrospect, the Federal regulators may be proven correct in their approach. But, the contrast remains.

Much of this hearing will be focused on the actions—or inactions—of three Federal agencies—the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation and the Justice Department.

Once again, we have concerns about what OCC did after it learned of problems within the bank—some of these discoveries made at least 4 years before the decision to padlock the doors. We do know that OCC was sufficiently vigorous to refer some of these issues to the Justice Department in 1981. Reviewing the records, one must wonder whether OCC relied too heavily on the simple fact that it had made a referral, and, thus, no longer needed to look to the agency's own administrative remedies. Referrals to Justice are not intended to be a channel for a sophisticated form of bureaucratic buckpassing.

If, indeed, OCC was depending on the Justice Department and the U.S. Attorney's Office in New York, enforcement at Golden Pacific hung by the most slender of threads. The original referral bounced around the U.S. Attorney's Office for a few years and then was summarily dropped last October—incidentally without even a murmer to OCC about the development. OCC's efforts to get the U.S. attorney's attention on some of the current problems met with little more success earlier this year.

Much of the controversy over Golden Pacific surrounds the manner in which some deposits were recorded—some apparently "off the books" of the bank. Customers of the bank were given so-called yellow certificates as evidence of the deposits.

Today, nearly 6 weeks after the closing, the holders of these certificates remain unpaid by FDIC. This has left great uncertainty within the community, and has increased the feeling that agencies of the Federal Government are insensitive about the problems that the failure of Golden Pacific has created. FDIC has added to the distrust by characterizing some of the holders of the certificates with a broad brush suggesting tax evasion and other illegal activity. Intended or not, many feel that FDIC's statements have libeled an entire community.

Without question, it is FDIC's responsibility to make certain that insurance claims are valid before it makes a payout. We support fully the need for proper determinations of these issues.

FDIC, however, should keep in mind that one of the strengths of Federal deposit insurance has been the prompt validation of claims and the swift payout to individual depositors. Much of the public's confidence in the insurance system hinges on the fairness and speed with which depositors are paid.

While the Golden Pacific case presents some unique problems, the hard fact is that the Federal Government—represented by the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation and the Justice Department—comes across in Chinatown as a heavy handed, plodding, uncreative and insensitive Government.

Neither good regulation nor the public's confidence is enhanced by such performance.

Before we begin the testimony I want to note that the House of Representatives has assigned this committee the responsibility and jurisdiction to deal with legislative issues bearing on the Nation's depository institutions. This committee is also assigned the oversight function regarding the various Federal financial, regulatory, and supervisory agencies. This investigative hearing is being conducted pursuant to the Rules of the House and of this committee regarding investigative hearings. Copies of the committee rules and clause 2 of Rule XI of the House are available for each witness.

The chairman notes for the record that there are six members present, a quorum under the rules for the taking of testimony.

I would like to add another thought here that I find very disturbing. During the course of staff work on this particular hearing, one of the highest-level officials at the FDIC expressed a little annoyance at the persistence and insistence of staff on this committee in their quest for facts and information, and volunteered to this staff "The damn Chinese and those damn Catholic priests." I happen to be a Catholic and resent that statement. I am sure the Chinese are not happy with that type of statement, and the irony of it was that the statement was made over the telephone to a member of the staff who is of Chinese extraction. We do not look kindly upon this attitude or this type of thinking at the FDIC. We do not condone it. We, indeed, condemn it. Mr. Wylie.

Mr. WYLIE. Mr. Chairman, thank you.

There are several obvious reasons for conducting this hearing this morning. First, there is a need to thoroughly probe the facts and circumstances surrounding the failure of Golden Pacific National Bank. Many allegations of wrongdoing have been put forth, and we want to be sure that we have all the facts on the table.

Second, there is a need to examine the actions of the regulators to see that all was done to prevent this misfortune, and that proper procedures for closing a national bank were used in this case.

I feel, however, that the most important reason for the hearing is to highlight both the damage which such alleged activities do to the good people who trust the financial institutions of our country, and the critical role that employees of such institutions play in identifying and detering such activities.

I would point out that this hearing is occurring during an impending investigation by the Justice Department into possible criminal activities which may have led to the bank's failure. We want to be circumspect in our investigation, so as to help, if we can, and not impede the case which the Justice Department is working on.

From what we know so far, we should focus on how the probability of discovery can be improved. I feel that we should focus on two courses of action. First, we should explore the feasibility of more unannounced spot checks by the regulators. Second, we should explore the feasibility of a hotline for bank employees to report illegal activities of their financial institutions. There are several precedents for hotlines in the Government, namely the GAO and DOD hotlines for waste, fraud, and abuse.

For those bank officials who would be criminals, we need to make them feel that they will ultimately be caught, and all connected with such abuse will be punished. A hotline will appeal to financial institution employees who know that what is occurring in the institution is wrong, but are afraid to report it in a highly visible manner.

In addition, we must consider the concept of what is the definition of insured funds. The unique marketing and recordkeeping practices of Golden Pacific have created potential areas of confusion and debate concerning this definition. It may be that the funds were not on the books and not seen by the examiners who were represented to some customers as being insured. An important question is, can this be resolved in a fair manner to the depositor without setting an expensive precedent for the insurance agencies?

Finally, I want to extend a welcome to today's witnesses. I am sure your comments will provide additional insight into this case, and I commend you, Mr. Chairman, for conducting this hearing this morning. Thank you very much.

Chairman **St Germain**. Thank you, Mr. Wylie. Mr. Barnard.

Mr. **Barnard**. Thank you, Mr. Chairman.

Mr. Chairman, as we begin these hearings today, I would like to indicate that the Golden Pacific National Bank was one of a large number of problems and failed banks which was studied by the Commerce, Consumers and Monetary Affairs Subcommittee, which I chair, in connection with its October 1984 report which was entitled, "Federal Response to Criminal Misconduct and Insider Abuse in the Nation's Financial Institutions."

While our investigation of Golden Pacific was not sufficiently exhaustive to permit definitive judgments, the information developed by the subcommittee raises the following questions which certainly need to be addressed during these hearings.

We need to know more about the absence of any civil enforcement action by the OCC in this case. Why did the OCC fail to take any supervisory or civil enforcement action in 1980 against the officers of Golden Pacific in response to allegations of criminal misconduct. The same officers are apparently implicated in the bank's failure this year. On September 16, 1980, approximately 5 years before its failure, an attorney for dissident shareholders of Golden Pacific alerted the Office of the Comptroller of the Currency to the possibility of criminal misconduct in the bank.

The alleged misconduct in 1980 appears to have involved the same individuals who presided over the bank when it failed this year, and who are currently the subject of a Justice Department investigation.

The OCC took no civil action at any time against them. We need to ask questions about the adequacy of the OCC's criminal referral and their cooperation with the Justice Department. Why did the OCC take 15 months to make a criminal referral. Why did the OCC fail to provide the Justice Department with detailed information when it finally made a criminal referral in 1981, and why did the OCC refuse followup assistance to the Justice Department?

On December 3, 1981, almost 15 months after the first allegation of criminal misconduct, the OCC sent a criminal referral to the U.S. Attorney's Office, Southern District of New York. However, that office advised my subcommittee that the referral was very barebones and so technical that it was very difficult to follow. Moreover, an assistant U.S. attorney stated that the OCC refused, without a grand jury subpoena, to send an examiner or an investigator involved in the Golden Pacific referral to assist the FBI agent assigned to develop a case.

Because of the complexity of the transactions involved and the apparent lack of the OCC assistance, FBI agents found it difficult to investigate these allegations.

Another question: Was the OCC refusal justified, or could it have provided more assistance? The OCC may defend their apparent noncooperation in Golden Pacific by invoking the Right to Financial Privacy Act of 1978, but our report concluded that differing agency interpretations of the act are often unnecessarily restrictive. That the act should not be regarded as an insurmountable barrier to providing effective assistance to the Justice Department, and three, that the banking agencies can take feasible steps to overcome restrictions in the act.

There are several important questions also that we need to address to the Justice Department about delays and nonprosecutions. Was the Justice Department sufficiently committed to prosecuting this case? What accounted for the lengthy delays? Did the Justice Department commit adequate resources and give it sufficient priorities, and why was the 1980 referral ultimately delined?

At the time our report was issued, the Justice Department had already concluded its investigation of Golden Pacific but was unable to prosecute the case because of severe manpower limitations in its Southern District of New York office. For example, the assistant U.S. attorney assigned Golden Pacific had been involved in a kidnaping trial for months. Subsequently, the referral was inexplicably declined, although prosecution had been planned. The question is why.

Mr Chairman, I commend you on holding these hearings today. It should certainly shed light on the issue that we have before us, and should give us further explanations as to the Federal response to criminal misconduct and insider abuse.

Chairman **St Germain**. Thank you, Mr. Barnard. An opening statement received from Representative Thomas J. Manton will be inserted in the record at this point.

[The statement of Representative Manton follows:]

STATEMENT OF REPRESENTATIVE THOMAS J. MANTON

Mr. Chairman, let me begin by commending you for holding today's hearing on the recent closing of the Golden Pacific National Bank of New York. I think today's hearing is indeed timely, given our subcommittee's obligation to oversee the activities of the Federal regulatory agencies which are charged with overseeing the safety and soundness of the Federal banking system.

During the past several weeks, I have met with a number of people who live in New York's Chinatown. Many of these people were depositors at the Golden Pacific National Bank. A number of them have not been reimbursed for deposits they made at the bank which they thought were legitimate and insured by the FDIC.

Mr. Chairman, the Golden Pacific National Bank was an important element of the Chinatown community. As an ethnic bank in an ethnic community, Golden Pacific was oftentimes the only source of capital for struggling minority businesses in Chinatown. Now, with the bank's closure by the FDIC, thousands of depositors have not been reimbursed for funds they thought were being safely deposited at the bank. These people want answers as to why these practices were not insured but allowed to go on by the Comptroller of the Currency. In addition, questions have been raised about the manner in which the FDIC sold the bank to the Hongkong & Shanghai Bank.

In light of these events and the questions they raise, I look forward to hearing from each of the witnesses in hope that the subcommittee might be able to find some answers to these troubling circumstances.

Chairman **St Germain**. Mr. McKinney.

Mr. **McKinney**. Mr. Chairman, I would like to commend you on having these hearings. Mr. Chairman, I would suggest that the United States and Russia have more communications than, seemingly, the Justice Department, the Office of the Comptroller of the Currency and the FDIC do. Mr. Chairman, the issue is, how are we ever going to assure the soundness of the FDIC or any of the insurance programs? How are we going to assure the American depositors that in fact their banks are not being run by criminals, if the regulators are not doing their job?

Here we are in 1985, discussing a case that should have been prosecuted in 1981, and the fact of the matter is, Mr. Chairman—

and I hate to say this—but the Justice Department has been derelict. The FDIC has been derelict, and the Office of the Comptroller of the Currency has not only been derelict but incompetent. I only hope that we will find out as these hearings go on what we can do to make sure that this does not happen again. We are in a period of time when the thrift institutions in this country are being racked with scandal, failure, and bad investment.

The American people need to know that in fact these agencies that we support, supervise, and finance are doing their jobs, and in this case they did not do their jobs. There has been obvious corruption, obvious fraud, obvious incompetence, and probably very severe criminal activity at the Golden Pacific in the past, and to have not followed this through, to have not cooperated with each other, to have not supplied the information is inexcusable.

I congratulate the chairman for helping us to try to get to the bottom of this. Let's get to the bottom of it and do something with the Office of the Comptroller of the Currency and the FDIC.

Chairman **St Germain**. In order to further assist us, we are very fortunate to have a graduate of this committee with us this morning. He asked if he could be recognized prior to the other witnesses who will be testifying. It is our pleasure to welcome the very distinguished gentleman from the State of New York, the Honorable Bill Green, the Congressman from the State of New York, who as I understand it, represents the people who are affected by these hearings.

Congressman Green.

STATEMENT OF HON. BILL GREEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. **Green**. Thank you very much, Mr. Chairman. I want to compliment you for convening these hearings. As you indicated, the headquarters of the Golden Pacific National Bank is in my Congressional District, and many of its depositors are members of the Chinatown community which is part of my district. Chinatown is a growing community with very rapid economic expansion. Many of its residents are recent immigrants to our country, working hard to establish an economic foothold here, and, therefore, the demise of this institution comes with particular force and pain to the community.

You stated the factual situation so well, Mr. Chairman, that I don't want to repeat it, and I simply ask that my full statement be inserted in the record, with your permission.

Chairman **St Germain**. Without objection, it is so ordered.

Mr. **Green**. I simply want to highlight the fact that, as has been mentioned by several members of the committee, circumstances which are very similar to those which apparently led to the closing of the bank last month were, in fact, known to the Office of the Comptroller of the Currency over 4 years ago. Like members of the committee, I am puzzled as to why nothing was done about it because suddenly, one Friday night I received a call from the FDIC informing me that the bank had been shut down.

I am also concerned for many depositors of the bank who thought that they had purchased a normal certificate of deposit, one insured by the FDIC. The certificate—and one of the witnesses has brought one here today—in general would not disclose to any reader, even one familiar with banking policy, that it was not a normal certificate of deposit in most cases.

There were a few cases where there was a faint stamp which might give that information to someone who was familiar with the situation, but again I think the committee should understand——

Chairman St Germain. Well, Mr. Green, the problem I have with that is that the stamp is very faint.

Mr. Green. I was about to say that, Mr. Chairman.

Chairman St Germain. Exceptionally faint.

Mr. Green. And many of the depositors are not fluent in English, so I am not sure even if it had not been faint that it would have——

Chairman St Germain. Exactly, and they expected the bank to service the Chinese community, and they knew full well that many of their customers were not proficient in the English language, not only not speaking it but not reading it. It almost seems intentional on the part of the issuer that they utilized this very faint stamp, and in addition, used the English language. They were taking no chances. They wanted to make certain that the purchaser would not know what was on that certificate.

Mr. Green. The problem, of course, is that that is history, and the concern in the community at the moment is that large numbers of people with significant amounts of money at stake have not had a decision reached by the FDIC.

Chairman St Germain. That is why we have the FDIC testifying after these witnesses. We are going to have a rather interesting discussion with them.

Mr. Green. Again, Mr. Chairman, I do want to thank you. I know your thoroughness and that of your staff and that of the rest of the committee, and I am sure that today's hearings will illuminate what has been very hard to piece together until now.

Chairman St Germain. My colleagues and I will do our utmost.

Mr. Green. Let me apologize for not being able to stay to hear the rest of the day's activities. I will have a staff member here. Unfortunately, the committee to which I graduated is also in session at the moment considering the foreign aid appropriations bill, and we expect some contentions. Thank you again.

Chairman St Germain. Thank you for your presentation.

[The prepared statement of Hon. Bill Green follows:]

CONGRESSMAN BILL GREEN

IN THE MATTER OF GOLDEN PACIFIC NATIONAL BANK

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS SUPERVISION, REGULATION AND INSURANCE

JULY 31, 1985

Mr. Chairman:

I want to thank you, Mr. Chairman, and the Ranking Minority Member of the Subcommittee, Mr. Wylie, for holding this important hearing this week. The closing of any financial institution is a traumatic event for the community in which it served, and I appreciate your taking the time to investigate the circumstances behind the failure of Golden Pacific National Bank.

As you know, Mr. Chairman, the headquarters of Golden Pacific National Bank was located in my Congressional District, in the Chinatown community of New York City. Like many smaller New York banks, it had a firm foothold in the community it served. Chinatown is a growing community undergoing a rapid economic expansion. Residents of Chinatown are working hard to make their community a better place to live. Many of Chinatown's residents are recent immigrants to our country, working hard to establish an economic foothold in the City. Like residents of any community, people in Chinatown need to have trust in the financial institutions serving them.

As you know, Mr. Chairman, the Golden Pacific National Bank was closed by the Comptroller of the Currency on Friday, June 21, 1985. I welcome the Subcommittee's investigation of this process, and I look forward to examining the testimony of witnesses from the Office of the Comptroller of the Currency and the Federal Deposit Insurance Corporation (FDIC), and the Subcommittee's conclusions.

As I stated in my June 25, 1985 letter to William M. Isaac, Chairman of the FDIC, many of the deposits in the bank belonged to my constituents. One of the many points of controversy surrounding the bank's operations is the issue of the "yellow certificates". The FDIC has not yet decided whether it will cover these certificates of deposit, printed on yellow paper. This issue, Mr. Chairman, symbolizes the need for an investigation by your Subcommittee.

It may well be the case that some depositors knew that they were investing in uninsured certificates of deposit. However, I have few doubts that others were not aware of the this situation. As I wrote Chairman Isaac, I would respectfully suggest that the FDIC should cover such funds if these funds were uninsured without the customer's knowledge. Surely a person working within the confines of a bank would be assumed by a customer to be acting on behalf of the institution. When a customer walks into a financial institution insured by the FDIC and deals with an employee or officer of the bank, it is only reasonable for the customer to believe that his money will be safe because it will be protected (given certain criteria) by the FDIC. I would argue that if a deposit occurred outside of normal banking procedures without the knowledge of the customer, it should not be a basis for denying a customer FDIC coverage.

Mr. Chairman, I have spent a great deal of time during the past month meeting with members of the Chinatown community and representatives from the FDIC. The FDIC has been extraordinarily helpful to me, and to my staff, in this matter. I have met with many of Chinatown's community leaders and Golden Pacific Depositors both in my New York office and here in Washington, D.C. They have been waiting patiently and working hard in an effort to understand this complex situation. In addition, I have held two meetings with representatives from both the FDIC and Chinatown. I have been told by both parties that these meetings were helpful.

In summary, Mr. Chairman, I am happy to be here today to introduce some of my constituents to you and the other members of the Subcommittee. It should be noted that these are not the only Chinatown residents with questions about the bank's failure. There is a great deal of speculation and uncertainty in Chinatown regarding the failure of Golden Pacific National Bank, and I applaud the Subcommittee's role in investigating this matter.

Chairman St Germain. At this point, we are going to swear the witnesses in. We also have a translator here. You are from the State Department?

Mr. Lin. Yes, sir.

Chairman St Germain. I am going to have to swear you in as well; and ask you to translate for those who do not speak and understand English.

So, will all the witnesses rise at this point and raise your right hand.

Do you swear the testimony that you are about to give is the truth, the whole truth and nothing but the truth?

[Chorus of "yes."]

And your name, sir?

Mr. Lin. My name is John Lin.

Chairman St Germain. We ask that you certify that your translation will be in accordance with the oath just administered?

Mr. Lin. I do.

Chairman St Germain. Copies of the rules of the House committee are at the witness table for the witnesses convenience. The first witness will be, and please forgive me if I mispronounce some of the names here, Anna Hsue. We recognize you, Ms. Hsue.

STATEMENT OF ANNA HSUE

Ms. Hsue. Mr. Chairman, and other members, before I start I would like you and all the members to look at my 6-month CD, and now, so-called yellow CD.

Chairman St Germain. Would staff bring the CD up to the chairman, please.

The Chair will read the wording on the certificate. It says "Nonnegotiable certificate, Golden Pacific National Bank, April 8, 1985."

It has the address, "241 Canal Street, New York." The amount is "$33,270.28." It is certificate number "13684." The certificate reads:

> This certifies that Hsue, Peter and/or Hsue, Anna has delivered to Golden Pacific Bank $33,270.28 payable to the holder on October 7, 1985, with interest at 9 percent per annum from date. Payment of principal amount will be made upon presentation and surrender of this certificate properly endorsed subject to above specified terms.
>
> No interest will accrue hereon after the maturity date thereof. If this certificate is issued to two payees it is understood and agreed that the ownership hereof shall vest in the payees as joint tenants with rights of survivorship, and is payable to either of them or the survivor, and that each payee as the agent or the other to give or receive any notice of, take any action affecting this certificate.
>
> This certifiate is subject to the terms and conditions prescribed on the agreement between the above-named customers and the conditions in the agreement, between the above-named customers and the bank dated April 8, 1985. One hundred eighty two days Golden Pacific Bank authorized signature.

I think it is signed by Ms.—is that signed by Shieh, Theresa?

Ms. Hsue. I don't know.

Chairman St Germain. The signature on the signature?

Ms. Hsue. They didn't sign in front of me.

Chairman St Germain. It was not signed in your presence.

Now how did you read the name on the certificate?

Ms. Hsue. I couldn't read it either.

Chairman St Germain. You couldn't read it.

Well, my staff tells me that they feel it is Theresa Shieh who signed this certificate. On the back of this application, "Issued and is received, original is acknowledged this blank day of blank."

The purchaser's signature is not filled in. However there is reference to, "the certificate is subject to the terms and conditions described in the agreement between the above-named customers and the bank dated, April 8, 1985."

Did you ever have——

Ms. HSUE. I am going to tell you my story about this yellow CD.

Chairman ST GERMAIN. May I ask you, did you sign an agreement with the bank, or did you get a——

Ms. HSUE. No, I never signed any kind of agreement.

Chairman ST GERMAIN. Did you ever see any agreement as referred to in this certificate?

Ms. HSUE. No; I never see any agreement before.

Chairman ST GERMAIN. Thank you.

What we are going to do, without objection, is place a Xerox copy of this in the record at this point.

[The certificate copy follows:]

NON-NEGOTIABLE CERTIFICATE

Golden Pacific National Bank
241 CANAL STREET, NEW YORK, N.Y. 10013

APRIL 08, 1985

13684

$**33,270.28**

THIS CERTIFIES THAT ** HSUE, [illegible] &/or HSUE, ANNA **

NAME

HAS DELIVERED TO GOLDEN PACIFIC NATIONAL BANK ** THIRTY THREE THOUSAND TWO HUNDRED SEVENTY AND 28/100 DOLLARS ONLY **

PAYABLE TO THE HOLDER ON OCT. 07, 1985. WITH INTEREST AT 9.00 % PER ANNUM FROM DATE.

PAYMENT OF PRINCIPAL AMOUNT WILL BE MADE ONLY UPON PRESENTATION AND SURRENDER OF THIS CERTIFICATE PROPERLY ENDORSED SUBJECT TO ABOVE SPECIFIED TERMS. NO INTEREST WILL ACCRUE HEREON AFTER THE MATURITY DATE HEREOF.

THIS CERTIFICATE IS ISSUED TO TWO PAYEES. IT IS UNDERSTOOD AND AGREED THAT THE OWNERSHIP HEREOF SHALL VEST IN THE PAYEES AS JOINT TENANTS WITH RIGHT OF SURVIVORSHIP AND IS PAYABLE TO EITHER OF THEM OR THE SURVIVOR AND THAT EACH PAYEE IS AGENT FOR THE OTHER TO GIVE OR RECEIVE ANY NOTICE, OR TAKE ANY OTHER ACTION AFFECTING THIS CERTIFICATE. THIS CERTIFICATE IS SUBJECT TO THE TERMS AND CONDITIONS DESCRIBED IN THE AGREEMENT BETWEEN THE ABOVE—NAMED CUSTOMER AND THE BANK DATED APRIL 08, 19 85.

182 Days.

GOLDEN PACIFIC NATIONAL BANK

CUSTOMER'S SIGNATURE

AUTHORIZED SIGNATURE

12

Chairman ST GERMAIN. I am now going to have the members of the committee look at this certificate while Ms. Hsue is testifying.

Mr. Barnard, did you have any questions?

Mr. BARNARD. Mr. Chairman, the facsimile certificate that we received says that, "therefore are not insured by the FDIC," that was typed in.

Does that certificate have that?

Chairman ST GERMAIN. No, sir, that is a certificate that was issued to someone else, obviously.

Mr. BARNARD. This is a blank. It is a sample, and the blank does specify that the funds are not insured by the FDIC, but——

Chairman ST GERMAIN. I am going to send this down and around to each of you. Ms. Hsue, you may proceed.

Ms. HSUE. My name is Anna Hsue, and I reside at 17 Northend Drive, Secaucus, NJ. I am a registered nurse working at the progressive care unit at Riverside General Hospital in Secaucus.

I am very happy here today to tell you my story. I am one of many, many victims. I feel highly honored by you.

Thank you. First of all, I never ever have any second thoughts when I walked into a FDIC-insured bank to open an account. Not only me, I think everyone of us here in this room and every one in the United States of America trust the American banking laws which provide for the FDIC insurance protection.

I refreshed my memory and checked my own records. I had opened my 6-month CD, now so-called blue CD, with Golden Pacific National Bank in 1982. The bank itself did not attract me, but their Chinese gifts did.

I think most banks gave out gifts around that time to attract customers. I also often go to Chinatown shopping, therefore, it is convenient for me to open an account with the bank.

I remember around that time the minimum amount required for a CD was $10,000, and I opened my account with $20,000. And then every 6 months I renewed my CD.

Around 1984, when I came to renew my 6-month CD, the bank officer told me that since you have $20,000, you should put your money in a higher interest CD.

He did not tell me it is not insured, and he did not explain to me anything. I presume this is the same kind of 6-month CD with higher minimum amount, and with higher interest.

At this time I think the minimum amount for a CD was $5,000 with regular interest. Since I had $20,000, they gave me higher interest.

I did not have second thoughts about the CD's color, blue or yellow, and I thought it was because of higher minimum amount and higher interest. The FDIC are now accusing the customers seeking higher interest.

Nowdays, you open the newspaper everyday and you see the banks' commercials, every banks' interests are not the same. Some are higher and some lower.

If you have more money, you will get higher interest. I think everybody is looking for highest interest for their hard-earned money.

I don't think because you are seeking higher interest that you committed a crime or some wrong doing. And also you have no second thoughts about the FDIC insured bank, when the bank officer told you the higher minimum amount of $20,000 with a higher interest. I think lots of banks are doing this.

In April of this year when I came to renew my 6-month CD with an additional $10,000. I remember I specifically questioned the bank officer about the insured manner because of an insolvent bank in Ohio State around that time. I don't know the officer's name, but I can recognize his face.

He told me that that bank was not insured by the FDIC. And said, this bank, Golden Pacific National Bank is insured by the FDIC, and then he showed me the FDIC signs on the banks' door and tellers' windows. He also said Golden Pacific National Bank is a big bank with many branches and the bank has plenty of money.

"Don't worry! Your money is insured." Then he told a lady to issue me a 6-month CD, and the lady handed to me this now so-called yellow CD.

Until June 21 of this year, after the bank was closed by the OCC and transferred to the FDIC, I learned my 6-month CD is not insured by the FDIC. If I knew, I would never put my hard-earned money in danger.

This is my life savings. As I said before, I am a RN working in the progressive care unit, where 30 lives in my hand each day. Now I am very nervous, and I could not concentrate upon my job because of this.

In the first week after the bank was closed, I thought I still had 100 percent chance to get my money back from the FDIC, because I know the fact that some, of the so-called yellow CD's are marked with rubber stamped markings stated "not insured." I read my CD over and over again, and I still could not find any words saying it is not insured.

And also, I have never signed any kind of agreement. As I said before, if I knew, I would never ever put my money in such a danger.

Until the bank was sold and the FDIC announced that the so-called yellow CD was not included in the insured money. It was like a nuclear bomb fell down on my head. It was like the end of the world for me.

I thought I was finished. This is my life savings and my hard-earned money. It is not easy for me to save this huge amount. It seemed throwing into the ocean and never come back again. Where is justice!

Finally, the FDIC opened a temporary claim office in Chinatown and asked people to claim their money. I think I was the first group went to claim, and my experience was terrible.

I was terrified by the FDIC members, and the FBI agents. They treated me like a criminal. It seemed that I stole all the money from the bank.

They yelled at me and they insisted that I knew well that it is not insured. This is the very first time in my life I was investigated by the FBI, and I was really humiliated.

Now, the FDIC investigated the so-called yellow CD's status almost a month, and they still did not give a definite answer. According to the FDIC, the so-called yellow CD is not insured, because the bank did not put the money in the bank's books or not in the computer.

They also said they could not locate the money. I don't understand, what is that going to do with us, the innocent customers, the victims.

How do I know that the bank did not put my money in the bank's books? Or not in their computer?

Now you are telling me that, when I am walking into a FDIC insured bank to open an account, and I have to ask them where you are going to put my money, or show me your bank book and put my money into the book in front of me.

Is that right?

I think the bank people may think I have problem or I am a real nut.

The so-called yellow CD issued by Golden Pacific National Bank since 1981, it is almost 4-years history. Now the OCC suddenly closed the bank because of its irregularities. As the FDIC stated clearly in their newsletter on July 11, 1985, that the bank's illegal activity does not affect the customers.

Now, I am asking you: Is the so-called CD issued by the bank considered as the bank's illegal activity? If it is, the FDIC has full legal responsibility and moral obligation to pay us money back right now!

If it is not illegal activity, and why the bank was closed by the OCC and transferred to the FDIC. We need a clear explanation!

The FDIC also claimed the bank's recordkeeping system is causing some confusion and they could not locate the money. They are now punishing the victims, and innocent customers who have no knowledge of the banking business at all.

I think they should punish themselves and blame themselves and feel shame about themselves who are supposedly the banking experts, and supposedly you should check up the banks' records regularly, weekly, monthly or yearly to protect people.

Now do you think you were deceived and cheated by the bank for the passed 4 years? You are experts in banking business, if you were deceived and cheated by the Golden Pacific National Bank.

How about us who have no knowledge of the banking system at all. Are we deceived, cheated and misled by Golden Pacific National Bank? If we are, please tell me where is justice! I truthfully and firmly believe that I have been deceived, cheated, and mislead by the bank

We have more confidence and trust in the American banking laws to protect all bank customers. When I opened my account with the bank, I trusted the integrity of the U.S. banking laws which provide for the FDIC insurance protection for all bank customers.

I also trusted the bank because of the sure sign "FDIC," on the doors and windows.

We have confidence in our democratic country and we trust our country and we trust our laws to protect innocent people.

Please excuse me for my poor English; and I do hope you understand what I was saying.

Thank you again, God bless America, and you all.

[The prepared statement of Anna Hsue follows:]

PREPARED STATEMENT OF ANNA HSUE

Mr. Chairman and all the members, my name is Anna Hsue and I reside at 17 Northend Drive, Secaucus, NJ 07094. I am a registered nurse working in the progressive care unit at Riverside General Hospital in Secaucus.

I am very happy here today to tell you my story. I am one of many, many victims and I feel highly honored by you. I thank you.

First of all, I never ever have any second thought when I walked into a FDIC insured bank to open an account. Not only me, I think every one of us here in this room and everyone in the United States of America trust the American banking laws which provide for the FDIC insurance protection.

I refreshed my memory and checked my own records. I had opened my 6-month CD (now so-called blue CD) with Golden Pacific National Bank in 1982. The bank itself did not attract me, but their Chinese gifts did. I think most of the banks gave out gifts around that time to attract customers. And also I often go to Chinatown shopping. Therefore, it is convenient for me to open an account with the bank. I remember around that time the minimum amount required for a CD was $1,000 and I opened my account with $20,000.

And then every 6 months I renewed my CD. Around 1984, when I came to renew my 6-month CD, the bank officer told me that since you have $20,000, you should put you money in the higher interest CD. He did not tell me it is not insured and he did not explain to me anything. I presume this is the same kind of 6-month CD with higher minimum amount and with higher interest.[1] I did not have second thought about the CD's color, blue or yellow, and I thought it was because of higher minimum amount and higher interest.

Nowadays, you open the newspaper everyday and you see the bank's commercials, every bank's interests are not the same. Some are higher and some lower. If you have more money, you will get higher interest. I think everybody is looking for highest interest for their hard-earned money. I don't think you are seeking higher interest that you committed a crime or some wrong doing. And also you have no second thought about the FDIC-insured bank when the bank officer told you the higher minimum amount of $20,000 with a higher interest. I think a lot of banks do this.

In April of this year, I came to renew my 6-month CD with an additional $10,000, I remember I specifically questioned the bank officer about the insured manner because of an insolvent bank in Ohio around the time. (I don't know the Officer's name, but I can recognize his face.) He told me that bank was not insured by the FDIC. And said: This bank—Golden Pacific National Bank is insured by the FDIC, and then he showed me the FDIC signs on the bank's door and tellers windows. He also said Golden Pacific National Bank is a big bank with many branches and the bank has plenty of money. Dont worry! Your money is insured. Then he told a lady to issue me 6-month CD and the lady handed to me this now so-called yellow CD.

Until June 21 of this year, after the bank was closed by the OCC and transfered to the FDIC, I learned my 6-month CD is not insured by the FDIC. If I knew I would never put my hard-earned money in danger. This is my life savings. As I said before, I am a RN working in the progressive care unit where 30 lives in my hand each day. Now I am very nervous and I could not concentrate upon my job because of this.

In the first week after the bank was closed. I thought I still had 100 percent chance to get my money back from the FDIC, because I know the fact that some of the so-called yellow CD's are marked with rubber stamped markings stated "no insured" and I read my CD over and over again and I still could not find any words saying it is not insured. And also I have never signed any kind of agreement. As I said before, if I knew, I would never ever put my money in such a danger.

Until the bank was sold and the FDIC announced that the so-called yellow CD was not included in the insured money. It was like a nuclear bomb fell down on my head. It was like the end of the world for me. I thought I was finished. This is my life savings and my hard-earned money. It is not easy for me to save this huge amount. It seemed throwing into the ocean and never come back again. WHERE IS JUSTICE!

Finally, the FDIC opened a temporary claim office in Chinatown and asked people to claim their money. I think I was in the first group to claim, and my experience was terrible. I was terrified by the FDIC members and the FBI agents. They treated me like a criminal. It seemed that I stole all the money from the bank. They yelled at me and they insisted that I knew well that it is not insured. This is the very first time in my life I was investigated by the FBI and I was really humiliated.

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[1] At this time, I think the minimum amount of CD was $5,000 with regular interest since I have $20,000 and they gave me higher interest.

Now the FDIC investigated the so-called yellow CD's status almost a month and they still did not give a definite answer. According to the FDIC, the so-called yellow CD is not insured, because the bank did not put the money in the bank's book or not in the computer. They also said they could not locate the money. I don't understand what is that going to do with us, the innocent customers, the victims, How do I know that the bank did not put my money in the banks book? Or not in their computer? Now you are telling me that when I am walking into a FDIC-insured bank to open an account and I have to ask them where you are going to put my money or show me your bankbook and put my money into the book in front of me. Is that right? I think the bank people may think I have problem or a real nut.

The so-called yellow CD issued by Golden Pacific National Bank since 1981. It is almost 4 years history. Now the OCC suddenly closed the bank because of its irregularities. As the FDIC stated clearly in their newsletter on July 11, 1985, that the bank's illegal activity does not affect the customers. Now I am asking you: Is the so-called yellow CD issued by the bank considered as the bank's illegal activity? If it is, the FDIC has full legal responsibility and moral obligation to pay us money back right now! If it is not illegal activity and why the bank was closed by the OCC and transferred to the FDIC. We need a clear explanation!

The FDIC also claimed the bank's recordkeeping system is causing some confusion and they could not locate the money. They are now punishing the victims, the innocent customers who have no knowledge of the banking business at all. I think they should punish themselves and blame themselves and feel shamed about themselves who are supposedly the banking experts, and supposedly you should check up the bank's records regularly, weekly, monthly, or yearly to protect people. Now do you think you were deceived and cheated by the bank for the past 4 years? You are experts in banking business, if you were deceived and cheated by the Golden Pacific National Bank. How about us who have no knowledge of the banking system at all. Are we deceived, cheated, and misled by Golden Pacific National Bank? If WE ARE. Please tell me where is JUSTICE?[2]

We have more confidence and trust in the American banking laws to protect all bank customers. When I opened my account with the bank, I trusted the integrity of the United States banking laws which provide for the FDIC insurance protection for all bank customers. I also trusted the bank because of the sure sign "FDIC" on the doors and windows.

We have confidence in our democratic country and we trust our country and we trust our laws to protect innocent people.

Please excuse me for my poor English and I do hope you understand what I was saying.

Thank you again, God bless America and you all.

I am here not seeking compassion, but JUSTICE!

Chairman **St Germain**. Mr. Northup, the witnesses that will be testifying for the FDIC subsequent to this panel, are they all present?

Mr. **Northup**. Yes; Mr. Chairman. They are all right here.

Chairman **St Germain**. Has the reporter been able to record all of the testimony?

The **Reporter**. As well as I could understand it.

Chairman **St Germain**. Ms. Hsue, is that a handwritten or typewritten statement that you read from?

Ms. **Hsue**. Some part is written, some part is typed out.

Chairman **St Germain**. I am going to ask staff to Xerox the statement and provide it to the reporter to make sure we have an accurate record of your statement.

Let me ask you a few questions before we go to the next witness. I just want to highlight a few things here to make sure FDIC personnel understood your testimony, because I think I did. It was very clear, and you have no reason to apologize for it.

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[2] I truthfully and firmly believe that I was deceived, cheated, and misled by the Bank.

You obviously spent a lot of time on this statement and for that we are grateful because it is most helpful to us, I am hoping that it will be helpful to the FDIC as well.

You chose Golden Pacific because it has convenient banking—you could do a great deal of shopping.

You live in Secaucus, NJ?

Ms. **Hsue**. Right.

Chairman **St Germain**. You shop in Chinatown because there are many——

Ms. **Hsue**. Go shopping every week because I am Chinese customer. I eat fresh vegetables all the time, usually. Usually supermarkets, they don't carry the fresh vegetables, and I go shopping quite often.

Chairman **St Germain**. I understand that is quite natural. I hope the FDIC will agree that it is natural to use a bank in an area where you shop and do business.

I mean it is a very proper and ordinary thing to do. You are not unusual. When you chose that bank, you chose it because it was an FDIC insured institution, as well as being a convenient institution. That I think was your testimony.

Ms. **Hsue**. Yes.

Chairman **St Germain**. Upon your last renewal you renewed your question about the coverage or insurance of your certificate, because of the situation in the State of Ohio that developed at that particular time?

Ms. **Hsue**. Yes.

Chairman **St Germain**. Ms. Hsue, the FDIC should know that the people of the United States of America are now more aware of insurance than ever before, and there was nothing unusual about your asking the bank officer to reassure you of the fact that this was an insured certificate. I don't think you made up this story after the fact, because my constituents in Rhode Island are also all very concerned about having money in federally insured institutions.

It has become a very important fact that has been brought to the attention of the people very, very individually, as a result of Maryland, and recently the situation in Ohio, as well.

Now, did you bank with another bank prior to going to Golden Pacific ?

Ms. **Hsue**. Yes; I have a local bank just for pay my bills.

Chairman **St Germain**. Which bank is that?

Ms. **Hsue**. Haven Savings and Loan Association in Secaucus. They don't open all the time. They close 3 p.m., which I finish work at 4 p.m.

Chairman **St Germain**. Is that also a federally insured institution?

Ms. **Hsue**. It is FSLIC.

Chairman **St Germain**. FSLIC?

Ms. **Hsue**. That is correct.

Chairman **St Germain**. So it is a savings bank?

Ms. **Hsue**. Right.

Chairman **St Germain**. Or a savings and loan. Have you asked them to show you where they are putting your money when you make your deposits at that bank?

Ms. HSUE. After I get scared. Yes; I did ask them the meaning of FSLIC because Haven Savings was new in Secaucus. The orginal bank was Washington Savings.

Chairman ST GERMAIN. Did you go to them and ask them to show you where they are recording your deposits in their books?

Ms. HSUE. Okay. The story——

Chairman ST GERMAIN. Ms. Hsue, in other words, the FDIC is saying that your golden certificate, your yellow certificate at Golden Pacific, was not recorded in the books of Golden Pacific, is that not correct?

That is one of the reasons——

Ms. HSUE. That is what I understand from FDIC was saying.

Chairman ST GERMAIN. That is correct?

Ms. HSUE. That is correct.;

Chairman ST GERMAIN. I am wondering, do you ask the people at the other banks you deal with to show you where they are recording your deposits?

I mean that is rather preposterous. I am just trying to bring that out.

Ms. HSUE. Yes; I did ask Haven Savings Bank, when it is a new bank, the original were Washington Bank, they took over, but Haven's bank was about April or March, March or April, and when they transport to New Haven, first question is insured.

At that time, I didn't understand FSLIC. I say, explain to me. This is not insured, and show me how you insure, and how much amount. They spent at least 10, 15 minutes. Because of an insolvent bank in Ohio State.

Chairman ST GERMAIN. You were being very thorough to make sure that your deposits were insured. I am hoping the other members of the committee have had an opportunity to take a look at the yellow certificate.

If any member of the committee finds anything on this certificate that states it is not FDIC-insured, I hope that they will bring it to the attention of the Chair.

Otherwise, we can assume that all of the members of the committee who were present and who have seen that certificate will be able to attest to the fact that it does not say anything about being non-federally-insured.

Mr. Cooper?

Mr. COOPER. I would be curious if the bank advertised in the newspapers about this type of CD, and whether that advertisement conveyed the news whether it was FDIC insured?

Chairman ST GERMAIN. We have not come upon any newspaper ads in our investigations.

Mr. MCKINNEY. Mr. Chairman?

Chairman ST GERMAIN. Mr. McKinney?

Mr. MCKINNEY. It is so obvious to me. It says it is the Golden Pacific Bank, and they have FDIC stickers all over the world. I would accept that piece of paper, and I have been on the Banking Committee for 15 years.

They are being raked over the coals. It is that simple.

Chairman ST GERMAIN. By the way, did you have any other accounts with Golden Pacific?

Ms. HSUE. No, that is the only one I have.

Chairman **St Germain**. Did you purchase this certificate at Golden Pacific because you didn't have to file your social security number?

Ms. **Hsue**. I am citizen here. I have my social security, and there is no—

Chairman **St Germain**. Were you trying to avoid any taxes?

Ms. **Hsue**. No.

Chairman **St Germain**. Were you trying to launder any illegal money?

Ms. **Hsue**. No; no reason for me to.

Chairman **St Germain**. Do you engage in any criminal activity?

Ms. **Hsue**. No.

Chairman **St Germain**. Well, then, why did you buy your certificate from Golden Pacific?

Ms. **Hsue**. This is my 6-month CD, and any other bank would give me—the FDIC, I took the word, the bank officer told me, and issued me——

Chairman **St Germain**. Were you trying to hide this money?

Ms. **Hsue**. No. What I have to hide? You can do anything and investigate anything to me, and I have no reason to be afraid.

Chairman **St Germain**. You said that the FDIC hollered at you. Was this at the P.S. 124, in New York?

Ms. **Hsue**. Yes.

Chairman **St Germain**. Do you recall the name of the FDIC official who hollered at you?

Ms. **Hsue**. First, I am alone, walking, and two FDIC members sit right in front of me.

Chairman **St Germain**. Do you recall the date?

Ms. **Hsue**. If I go back and check my records, I may have.

Chairman **St Germain**. While the other witnesses are testifying, perhaps you could try to find the date for us, because then we can find out who the pleasant individuals were.

Two FDIC people were sitting there?

Ms. **Hsue**. I was arguing with them, I do not know, it is not usual. Three people together yelled at me and insist, I was knowing that not insured—they treat me like a criminal and I am alone. I can't talk with three people together, yell and screaming at me like that.

Then they couldn't talk me anything—they sent me to the FBI.

Chairman **St Germain**. They sent you to the FBI?

Ms. **Hsue**. Yes.

Chairman **St Germain**. Tell me, did they send you to the FBI?

Ms. **Hsue**. Yes.

Chairman **St Germain**. There were two sitting down, and a third one came over?

Ms. **Hsue**. Yes.

Chairman **St Germain**. Which one sent you there and what words were used, if you can recall?

Ms. **Hsue**. They were trying to say FBI will help me more. They tried to confuse me, because I couldn't talk anymore, I was so emotional and upset and they send me to the FBI, they help me more.

Chairman **St Germain**. They said the FBI would help you more. In what way?

Ms. HSUE. I don't know. I was so nervous. I don't know what they mean by help.

Chairman ST GERMAIN. Now, it was the fact that they told you to go out a particular door, and when you went out that door, lo and behold, there were FBI agents there. They actually said, go there, the FBI will help you?

Ms. HSUE. They took me over.

Chairman ST GERMAIN. They took you over?

Ms. HSUE. Yes.

Chairman ST GERMAIN. They escorted you over?

Ms. HSUE. They said, go this way, go this way to FBI.

Chairman ST GERMAIN. Did they stand up from their chairs?

Ms. HSUE. As I said, the two FDIC people sit in front of me, and we argue back and forth about, I tell them, I didn't know it is not insured, and they insist to me, I know well that was not insured, and because we argued for 10 or 15 minutes, another FDIC people come over, and they together, screaming of me and yell of me, then we couldn't have any kind of agreement or anything, so they took me to the FBI.

Chairman ST GERMAIN. When you said they took you?

Ms. HSUE. Go this way.

Chairman ST GERMAIN. Did they stand up and walk with you to the door?

Ms. HSUE. Yes.

Chairman ST GERMAIN. Two of them, one of them?

Ms. HSUE. One of them.

Chairman ST GERMAIN. What did he look like?

Ms. HSUE. It is a man, not lady.

Chairman ST GERMAIN. You mean all American men look alike?

Ms. HSUE. If FDIC people stand in front of me, I can recognize his face for sure. I can point out which one.

Chairman ST GERMAIN. We don't have any of the delightful FDIC people that were there that day, but maybe we could get them to come in. I will have one of our investigators go to New York with you—yes, that would be nice.

So he took you to that door, and he said the FBI could help you.

Ms. HSUE. Yes.

Chairman ST GERMAIN. In which way, to help you to what, to get yourself in the slammer or what?

Ms. HSUE. Get your money back.

Chairman ST GERMAIN. He said the FBI could help you get your money back? Miss Hsue, talk to me, try to relax.

Ms. HSUE. I really try to remember.

Chairman ST GERMAIN. OK, we just want your best recollection, and if you don't remember an answer to a question I ask you, just say, "I don't remember."

Ms. HSUE. OK. All right.

Chairman ST GERMAIN. Now, they took you to the FBI. How many FBI agents were there? One or two?

Ms. HSUE. The FBI agent, they sit at different table. They send me to one of them.

Chairman ST GERMAIN. Do you recall how many FBI agents were there?

Ms. HSUE. Three or four tables there.

Chairman St Germain. With an agent at each table?

Ms. Hsue. Yes.

Chairman St Germain. This must be a very important case. Three or four FBI agents, wow. They can't find some of the most wanted criminals in the United States of America for lack of personnel, but they can assign two or four personnel to Ms. Hsue.

That is fantastic. Okay, now, you sat down with the FBI agent.

Ms. Hsue. Yes, I did. I thought she would help me.

Chairman St Germain. So what did the FBI agent say to you?

Ms. Hsue. They have a piece paper, and has all the questions there already.

Chairman St Germain. One moment, please. Let's give Ms. Hsue a copy of this.

Ms. Hsue. Thank you.

Chairman St Germain. Ms. Hsue, is this the form? It says:

> Or investigation (FBI) regarding an investment certificate, also known as a "yellow certificate," I am voluntarily furnishing the following information:

That is at the head of it, right?

Ms. Hsue. Yes.

Chairman St Germain. Is this the type of paper he showed you?

Ms. Hsue. The color was yellow at that time. Right now, it is white. The question looks the same.

Chairman St Germain. Let's go through the questions. Did he ask you each of those questions?

Ms. Hsue. No, he read and I fill in the information. I do not fill in by myself.

Chairman St Germain. You did not fill this in?

Ms. Hsue. No. She, she don't even let——

Chairman St Germain. Oh, there was a female at the FBI?

Ms. Hsue. Yes, she don't even let me look at the question. She read the question and answer the question. As I said before, I don't speak good English, and sometimes certain words I don't understand.

Chairman St Germain. Did you ask her if you could see the form?

Ms. Hsue. After I finish the question, I realize why is FBI, and I thought FBI help us to investigate to find out if the criminal should be the bankers. After I finish the question, I realize I have been tricked by the people, so I ask her, could I read the question, and she let me look at the question.

Chairman St Germain. And the answers that she had filled in?

Ms. Hsue. Yes.

Chairman St Germain. Then what?

Ms. Hsue. Then, at that time, I was upset about, there is one question, No. 11.

Chairman St Germain. "Did you purchase an investment certificate from the Golden Pacific National Bank?"

Ms. Hsue. OK, if you answer yes, at that time I did not understand or distinguish between the investment certificate or CD, and she told me, the answer has to be yes or no, because at the bottom, it says there, yes or no.

I circled yes. Then, I go home, I read the newspaper.

Chairman St Germain. Before you went home?

Ms. HSUE. After I go home.

Chairman ST GERMAIN. Let's not go home yet. Let's stay with this delightful—was this a charming FBI lady?

Ms. HSUE. Yes.

Chairman ST GERMAIN. Lots of personality?

Ms. HSUE. I think so.

Chairman ST GERMAIN. Did she make you feel comfortable in the beginning?

Ms. HSUE. I was shaking and crying at that time.

Chairman ST GERMAIN. Because of your experience with the FDIC?

Ms. HSUE. Yes.

Chairman ST GERMAIN. They were nice gentle people. OK, so they gave you the rough treatment, and then they sent you to that kind person, the FBI woman?

Ms. HSUE. Right.

Chairman ST GERMAIN. Now, tell us, that lady, did you ask her anything, or tell me, did she just say sit down, "Would you be seated, please?" Is that how it started?

Ms. HSUE. OK, after I finish all the questions, I realize I have been tricked by people. I asked the——

Chairman ST GERMAIN. Wait. Ms. Hsue, before you finished or before you started the questions, what did this lady say to you from the FBI?

Ms. HSUE. The beginning:

> I am FBI agent, my name is such, such. I try to help you. We are investigating what yellow CD is, so I have all the questions. I am going to ask you. You just give me the answer.

Chairman ST GERMAIN. Then she started asking you the questions on this form?

Ms. HSUE. Right.

Chairman ST GERMAIN. Did you sign the form after you finished?

Ms. HSUE. No.

Chairman ST GERMAIN. You did not sign. Did she ask you to sign this?

Ms. HSUE. No.

Chairman ST GERMAIN. She did not ask you to sign it?

Ms. HSUE. No.

Chairman ST GERMAIN. So, you did not sign it?

Ms. HSUE. No, I didn't sign.

Chairman ST GERMAIN. OK, then you went home. Wait a minute.

Ms. HSUE. I did ask her, could I have a copy of my answer. She say no.

Chairman ST GERMAIN. She would not give you a copy.

Ms. HSUE. She wouldn't give me a copy of them.

Chairman ST GERMAIN. Made you happy to be an American, didn't it? You finished answering the questions and she said she needed this to help you with your yellow certificate, right?

Ms. HSUE. Yes.

Chairman ST GERMAIN. Then what? You finished answering. You asked for a copy. Then what did you do?

Ms. HSUE. I said, could I have a blank one, in case I misunderstand the question. She say no, so I don't have any.

Chairman **St Germain**. Did she say it was a classified document? That if she let that out of her hands, the security of the United States of America might be jeopardized? Is that why she said—well, we are going to ask the FBI about that.

You finished this. She said, "No, you can't have a copy." Was there any more conversation with the FBI lady?

Ms. **Hsue**. I think that is it.

Chairman **St Germain**. Were there any other FBI agents sitting there? Did any of the other agents speak to you?

Ms. **Hsue**. No.

Chairman **St Germain**. Were you alone at that point in time as well, or were there other depositors there, too?

Ms. **Hsue**. I think other victims there, too.

Chairman **St Germain**. Another victim was there?

Ms. **Hsue**. Yes.

Chairman **St Germain**. With an FBI agent?

Ms. **Hsue**. Yes.

Chairman **St Germain**. Now, you have gone home.

Ms. **Hsue**. Right.

Chairman **St Germain**. We are going to adjourn for a few minutes and when we return, maybe you could tell us what you read in the paper when you went home, when I interrupted you. OK? We will be in recess for 5 to 10 minutes to cast a vote, and then we will be back and we will resume.

The subcommittee will be in recess.

[Recess.]

Chairman **St Germain**. The subcommittee will come to order.

Ms. Hsue, I don't know who the artist is, it is obviously not Michaelangelo, who drew that sketch, but is that an accurate representation?

You notice the big room is the auditorium please point that out to us. There was a table. Were there two tables or one table?

Ms. **Hsue**. One long table. When I walk in, they want all the ID card, information, Social Security number, my citizen number.

Chairman **St Germain**. Wait a minute. This is the FDIC. They wanted all that?

Ms. **Hsue**. Yes, my driver's license number, and credit card number.

Chairman **St Germain**. What card number?

Ms. **Hsue**. Credit card number.

Chairman **St Germain**. Credit card? How about your blood type? This is getting a little serious. They wanted your Social Security number?

Ms. **Hsue**. Right.

Chairman **St Germain**. Your——

Ms. **Hsue**. Two ID card number.

Chairman **St Germain**. An ID card for the bank?

Ms. **Hsue**. No, any kind ID, so at that time, I have VISA with me.

Chairman **St Germain**. You gave them a VISA?

Ms. **Hsue**. Yes, and my driver's license. At that time, I did not have my Social Security number with me. Then they started. "How could you be a citizen and don't even carry your Social Security number with you?"

Chairman St Germain. I wonder, does the FDIC feel as though it is a matter of law that you have to carry a Social Security number? I wonder how many FDIC employees can reach down their wallets or their handbags and come up with their Social Security number?

Most of us have it memorized. We don't have to carry it. I keep mine in my safety deposit box. I think most people do, because it wears out. They said what to you? How could you what?

Ms. Hsue. It is a translate lady tell me, you are a citizen, how could you not remember your Social Security number with you? She told me that, and I thought it is very——

Chairman St Germain. You are talking about the FBI?

Ms. Hsue. FDIC, she, a translator.

Chairman St Germain. You needed a translator?

Ms. Hsue. They thought I don't speak English.

Chairman St Germain. Did she give you a chance to talk English?

Ms. Hsue. I try to tell her, I don't need her. She thought I was very insulting to her.

Chairman St Germain. Maybe she was being paid by the number of words she translated, and you took employment away from her. Anyway, there was a long table?

Ms. Hsue. Yes.

Chairman St Germain. That is where they asked you these delightful questions?

Ms. Hsue. Three or four people sitting there. Each table ask different ID card.

Chairman St Germain. At one table, they wanted your Social Security number?

Ms. Hsue. The first one ask me, CD, show the yellow CD. The second one ask me, show then the passport, or my citizenship, so I say to them, "I don't carry it with me."

First, they thought I was, you know, just permanent resident.

Chairman St Germain. Staff, I hope you are making a list of these requirements, so that we can enjoy ourselves with the FDIC, when they attempt to justify these preposterous requests.

Go ahead. Passport, and why don't you carry our citizenship papers with you? Next one?

Ms. Hsue. Next one want a different credit card. They even took my Blue Cross-Blue Shield, and copy my ID number, because I don't have a Social Security number with me, so they copy that ID number, as my Social Security number which is different.

It is wrong number. I went back and tell them 2 days later.

Chairman St Germain. OK, which one was next?

Ms. Hsue. The driving license number.

Chairman St Germain. Did a different person ask for that?

Ms. Hsue. Each going, and they ask me different ID card, yes.

Mr. Chairman, sometimes, due to my nervous, if I don't understand your question properly, could I ask a translator to help me to make sure I understand?

Chairman St Germain. You are doing terrific.

Ms. Hsue. I am too nervous.

Chairman St Germain. No, you are not. You are rendering a great service here, and remember, we are friends.

Ms. Hsue. Thank you.

Chairman **St Germain**. We are friends. The reason for this hearing is merely to determine what type of treatment people received. When I asked you if they asked for your blood type, that was to make you smile a little, and make you relax.

Now, tell me, which one took your fingerprints?

Ms. **Hsue**. No fingerprints.

Chairman **St Germain**. Did they ask you for your criminal record; that is, how many times you had been arrested?

Ms. **Hsue**. No.

Chairman **St Germain**. How about parking tickets, did they ask you if you had any parking tickets in Chinatown?

Ms. **Hsue**. No.

Chairman **St Germain**. Have you paid all your parking tickets.

Ms. **Hsue**. I haven't got one yet.

Chairman **St Germain**. Do you have a driver's license and an automobile?

Ms. **Hsue**. Yes.

Chairman **St Germain**. Did they ask you for the registration of your car, seriously?

Ms. **Hsue**. No.

Chairman **St Germain**. All right. What else did they ask you for?

Ms. **Hsue**. Then they told me, the last lady walked me to the FDIC claims area.

Chairman **St Germain**. You haven't even gotten to the claims area and you had to give up all the identification in the world. Furthermore, you had to prove you were a citizen, even though you had a certificate. You have not even got to the claims area yet?

Ms. **Hsue**. No.

Chairman **St Germain**. This is a sophisticated operation, ladies and gentlemen. What happens then?

Ms. **Hsue**. It is like auditorium, you have to walk to the top of the auditorium to like that. It has two tables there, each table has two people there.

Chairman **St Germain**. Put two tables there, Chris, with two people at each one Put two stick people at each one. OK.

Ms. **Hsue**. I am sitting on the right side of the table, that one, and to answer their question.

Chairman **St Germain**. Two people are questioning you?

Ms. **Hsue**. At that time. After I scream, another FDIC people come over and help the other FDIC people to scream, yell at me.

Chairman **St Germain**. You are a very awesome, frightening person, you realize. How tall are you?

Ms. **Hsue**. Five, five.

Chairman **St Germain**. Wow, you must have scared the living beegees out of them. The third one comes over. Now what?

Ms. **Hsue**. They insist I knew this yellow CD was not insured.

Chairman **St Germain**. They are telling you that you knew it was not insured?

Ms. **Hsue**. Yes.

Chairman **St Germain**. They didn't ask you.

Ms. **Hsue**. They don't ask. They tell me that. That is why they yelled at me. They treat me like a criminal. That is why I was upset, and I tell them my story. They don't want to listen, and I screaming and screaming. I tell them the story.

They say, this is not my problem. I take you to the FBI, and FBI going to help you.

Chairman **St Germain**. Oh, the fact that you are losing how much, $37,000?

Ms. **Hsue**. $32,000

Chairman **St Germain**. $32,000. They said, that is not their problem?

Ms. **Hsue**. Yes.

Chairman **St Germain**. Go see the FBI.

Ms. **Hsue**. Yes.

Chairman **St Germain**. Go ahead.

Ms. **Hsue**. They have a claim form.

Chairman **St Germain**. A claim form?

Ms. **Hsue**. Right.

Chairman **St Germain**. Is this the FDIC?

Ms. **Hsue**. FDIC.

Chairman **St Germain**. They had a claim form?

Ms. **Hsue**. Claim form.

Chairman **St Germain**. One moment. Do you have a copy with you, Ms. Hsue?

Ms. **Hsue**. Yes, I do.

Chairman **St Germain**. We will return it to you.

I am going to ask that this be xeroxed and we will place it in the record at this point, without objection. I will have copies for all of the members, but I will read it now.

[The claim form referred to follows:]

PROOF OF CLAIM

Claim No.: ____________

Name of Account: ______________________________

State of New York }
County of New York }

Personally appeared before me, the undersigned ______________________________, who being duly sworn, says that the "Golden Pacific National Bank" located at ______________________________ now in Liquidation is justly indebted to ______________________________ in the sum of ______________________________ Dollars upon the following claims, to-wit:

Balance due on Yellow Certificate Nos.:

Interest due on Yellow Certificate Nos.:

Total:

	AMOUNT

Deponent further states that this claims is on behalf of ______________________________ and states that no part of said debt has been paid, that no endorsement or assignment of the same or any part thereof has been given and that there is no set-off or counter claim or other legal or equitable defuse to said claim or any part thereof.

ANY FALSE STATEMENT MADE ON THIS PROOF OF CLAIM IS PUNISHABLE BY FINE AND/OR IMPRISONMENT AS PROVIDED BY LAW 18 USC §§ 1001, 1007.

Signature ______________________________
Name: ______________________________
Address: ______________________________
____
____
Tel No. ______________________________
Social Security No. ______________________________
Other ID ______________________________

Sworn to and subscribed before me this ______________________________ day of ______________________________ 1985.

My Commission Expires: ______________________________

____
(Signature of Officer Administrating OATH)

Chairman **St Germain**. Don't worry about it, because we will give you the full text in a few moments. It is something that the fellow who drew that chart there could have drawn as well, because it is not very professional, but it says, proof of claim, with a claim number, on the right. Then it states:

> Name of account; State of New York, county of New York.
>
> Personally appeared before me, the undersigned "blank," who being duly sworn, says that the Golden Pacific National Bank located at "blank" now in liquidation is justly indebted to "blank" in the sum of "blank" dollars upon the following claims, to wit:
>
> Balance due on yellow certificate numbers:
>
> Interest due on yellow certificate numbers:

And then the total.

Then it says:

> Deponent further states that this claims is on behalf of "blank," and states that no part of the said debt has been paid, that no endorsement or assignment of the same or any part thereof has been given and that there is no set-off or counter claim or other legal or equitable defuse to said claim or any part thereof.
>
> Any false statement made on this proof of claim is punishable by fine and/or imprisonment as provided by law, 18 U.S.C. 1001, 1007.

It then asks for a signature, name and address, telephone number, Social Security number, and any other ID.

> Sworn to and subscribed before me this "blank" day of "blank," 1985. My Commission expires: "blank." Signature of Officer Administrating Oath.

Did you fill out this claim form?

Ms. **Hsue**. After we had yelled back and forth, I try to explain to them, they don't want to listen, they yell to me and have some one come over, help them to help at me, and finally——

Chairman **St Germain**. They had someone come over to help them yell at you?

Ms. **Hsue**. Yes.

Chairman **St Germain**. Two were not enough. They brought a third one. Their telling was better than your yelling?

Ms. **Hsue**. Right.

Chairman **St Germain**. Good.

Ms. **Hsue**. At that point, I already had tears to my eye, I couldn't talk to them, such English, poor and nervous. So they said, "We are here, just give you the form. You can take home to fill out the information and make sure it has——"

Chairman **St Germain**. It has what?

Ms. **Hsue**. Notarized. "The only person that can help you is FBI. We have nothing to do with this claim office."

Chairman **St Germain**. "We have nothing to do with the claims office?"

Ms. **Hsue**. Claim office just give you the form, and you go to FBI. He is going to take you to the FBI, and they are going to help you out.

Chairman **St Germain**. Is that an accurate representation, that they took you along the wall?

Ms. **Hsue**. From there, walk to the—yes, FBI there, OK.

Chairman **St Germain**. Let me ask you something. You came in and there was a table where they asked you for identification?

Ms. **Hsue**. Right.

Chairman **St Germain**. After that delightful experience, they escorted you across the auditorium, up some steps to a place where there were two tables with FDIC people?

Ms. **Hsue**. Right.

Chairman **St Germain**. That is where you would have filled out this form, but they told you that the certificate was not insured?

Ms. **Hsue**. Yes.

Chairman **St Germain**. Then they escorted you to the door to exit. Could you have gone the same door that you came into?

Ms. **Hsue**. No.

Chairman **St Germain**. Why not?

Ms. **Hsue**. You have to go that way. All the chairs in the auditorium, all the peoples there, and you have to follow their procedure to go the other door out.

Chairman **St Germain**. You have to go out by the FBI?

Ms. **Hsue**. Yes.

Chairman **St Germain**. Is there anyone here with Ms. Hsue who can answer this question for me? Well, let me ask you this question, Ms. Hsue. Could you, if you wanted to, have walked back to the door that you came through to leave? Did you have to go through the—let's call it the FBI hallway?

Ms. **Hsue**. They already insist to me, go this way to the FBI. They already insist to me. I don't have no thinking or no other choice.

Chairman **St Germain**. In other words, did you get the impression that the FDIC was saying to you, now that we are finished with you, you must go to the FBI?

Ms. **Hsue**. That is what I understand, yes.

Chairman **St Germain**. They obviously made a determination that you were no doubt a criminal type of person?

Ms. **Hsue**. That is exactly how I feel.

Chairman **St Germain**. I would have felt the same way, so don't feel badly. Did they search you for hidden weapons or anything?

Ms. **Hsue**. No.

Chairman **St Germain**. You are lucky.

Now, when you got into that hallway, could you have gone out without talking to the FBI people?

Ms. **Hsue**. No.

Chairman **St Germain**. Why not?

Ms. **Hsue**. They walk with me together, this way, "You are going to this way," and there is no other way I can walk.

Chairman **St Germain**. No ifs, ands or buts about it. You were escorted to the FBI by the FDIC?

Ms. **Hsue**. Yes.

Chairman **St Germain**. The FDIC is going to tell us that they were such nice people that they wouldn't do that. They'll tell us they didn't know why the FBI was there.

Ms. **Hsue**. One week later I went back to FDIC office after I had this terrible experience. I tell them, why is that, you know, FBI is there? Then they explain to me, "you have a choice. You can go in or go out."

I say, why they didn't tell me that time. They have to walk me through to the FBI, so after that, I complained. They changed their rule.

Chairman **St Germain**. They changed their tune?

Ms. **Hsue**. They said, "If you want to go to FBI, fine. If you don't want to, you don't have to."

Chairman **St Germain**. Were any of these other people with the golden certificates that went through this procedure, that went in and were asked for identification, passports and citizenship papers, and went to the claims table, and then were escorted to the FBI? Did you talk to any of them?

Ms. **Hsue**. Yes, I did.

Chairman **St Germain**. Did they have the same feeling that, they had to talk to the FBI?

Ms. **Hsue**. Everybody, yes. Everybody was terrified. Everybody have such terrible experience, investigation by the FBI.

Chairman **St Germain**. Now, we are back with the nice FBI lady.

Ms. **Hsue**. Three tables there.

Chairman **St Germain**. That was in a room off of the hallway? Or was it in the hallway?

Ms. **Hsue**. I think it is hallway, yes.

Chairman **St Germain**. There were three tables there?

Ms. **Hsue**. Yes.

Chairman **St Germain**. OK, and you were interviewed by a female FBI agent?

Ms. **Hsue**. Yes.

Chairman **St Germain**. She asked you the questions that were on the form?

Ms. **Hsue**. Right.

Chairman **St Germain**. She filled out the answers?

Ms. **Hsue**. Right.

Chairman **St Germain**. But you did not sign the form?

Ms. **Hsue**. No.

Chairman **St Germain**. Did she ask you to take it home, or did she not give you a copy?

Ms. **Hsue**. No, I asked her for the copy. She wouldn't give it to me.

Chairman **St Germain**. Did she ask you to sign it?

Ms. **Hsue**. No.

Chairman **St Germain**. OK. Then you went home, and what did you see in the paper when you got home?

Ms. **Hsue**. I thought everything would be fine. They try to help us. When I read the newspaper. The newspaper tells the No. 11 question. OK, investment certificate, that part.

Chairman **St Germain**. Did you purchase an investment certificate from the Golden Pacific National Bank?

Ms. **Hsue**. OK, at that time, the FBI lady only give me choice, yes or no. The newspaper tell me, if you answer yes, that means you tripped by the FBI people, investment certificate, that means not insured, so they tricked you.

Chairman **St Germain**. Did you know what an investment certificate was when you circled No. 11?

Ms. **Hsue**. No, all I know is I put my 6 months' CD, and even now, I think FBI, they could not distinguish between investment or certificate or 6 months' CD.

Mr. Wylie. Mr. Chairman, what newspaper was that article in?

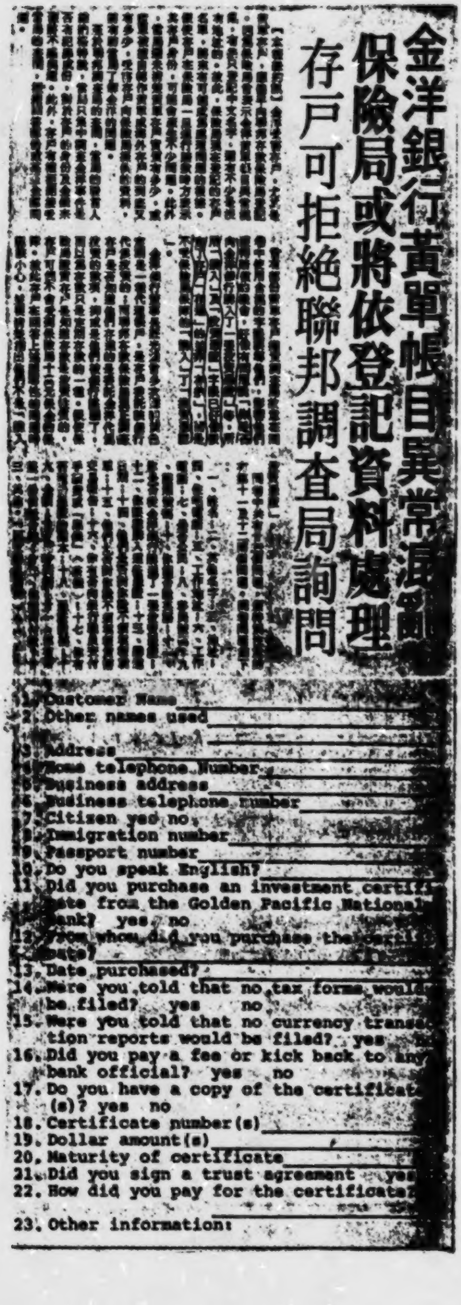
Ms. Hsue. It is Chinese newspaper, but which one, I don't know.

Mr. Wylie. I would like that article for the record.

[The article referred to follows:]

Centre Daily News

July 9,1985



金洋銀行黃單帳目異常混亂
保險局或將依登記資料處理
存戶可拒絕聯邦調查局詢問

1. Customer Name
2. Other names used
3. Address
4. Home telephone Number
5. Business address
6. Business telephone number
7. Citizen yes no
8. Immigration number
9. Passport number
10. Do you speak English?
11. Did you purchase an investment certifi
cate from the Golden Pacific National
Bank? yes no
12. From whom did you purchase the certi
cate?
13. Date purchased?
14. Were you told that no tax forms woul
be filed? yes no
15. Were you told that no currency transa
tion reports would be filed? yes
16. Did you pay a fee or kick back to any
bank official? yes no
17. Do you have a copy of the certificat
(s)? yes no
18. Certificate number(s)
19. Dollar amount(s)
20. Maturity of certificate
21. Did you sign a trust agreement yes
22. How did you pay for the certificate?
23. Other information:

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Mr. **Wylie**. Mr. Chairman, are the rest of us going to be given an opportunity to question?

Chairman **St Germain**. I am sorry. I will ask one last question of the lady. My question is, When you made that circle, did you know what an investment certificate was?

Ms. **Hsue**. No, I don't know. All I know is the 6 months' CD.

Chairman **St Germain**. You did not know what an investment certificate was?

Ms. **Hsue**. No.

Chairman **St Germain**. Thank you. Mr. Wylie?

Mr. **Wylie**. Thank you, Mr. Chairman.

I think there may be another dimension to this whole inquiry that we are conducting here this morning, and I was hoping that I would have an opportunity to examine Dr. Chuang. I notice that he is not on the panel.

Is he going to be called on later?

Chairman **St Germain**. Dr. Chuang was asked to testify, but refused to. I was going to make a statement regarding that at the end. Could we withhold that until the end?

Mr. **Wylie**. Fine, because that is the thrust of my questions that I want to get into, as to how all this took place.

At the time you bought your yellow CD, did you sign any paper for it?

Ms. **Hsue**. No, that is the only paper I receive. All I understand this is my 6 months' CD, I asked her for the 6 months' CD.

Mr. **Wylie**. You just got that piece of paper, never filled out any forms?

Ms. **Hsue**. Yes.

Mr. **Wylie**. Did you provide them with a social security number at that time or any identification?

Ms. **Hsue**. Yes.

Mr. **Wylie**. Social Security number?

Ms. **Hsue**. Yes; when I first opened the account, I did provide them with Social Security number and in each renewal, they did not ask for it.

Mr. **Wylie**. That was on some form or did somebody just ask you a question and say, what is your Social Security number? Did you fill out a form and put your Social Security number on it?

Ms. **Hsue**. Whenever they ask me the question, I just answered them.

Mr. **Wylie**. You didn't fill it out yourself?

Ms. **Hsue**. No.

Mr. **Wylie**. Somebody asked you for your Social Security number, and you told them what it was?

Ms. **Hsue**. Yes.

Mr. **Wylie**. Good. Did the bank officer with whom you did business tell you how much your interest was going to be on the yellow CD?

Ms. **Hsue**. That is exactly the interest on the bank, outside door and showing, 6 months' CD is how much.

Mr. **Wylie**. Did you ever receive any earnings from the yellow CD?

Ms. **Hsue**. Do I ever?

Mr. **Wylie**. Yes.

Ms. HSUE. Repeat your question.

Mr. WYLIE. Did you receive any earnings from your yellow CD?

Ms. HSUE. OK, I have this yellow CD since 1984, OK. As I said, I have checked my records. I have a blue CD before, and 1982, and according to my records here, I have 1982 Golden Pacific Bank, I think this is a 1099 form here.

Mr. WYLIE. You got a 1099 form from the bank for your blue CD, or yellow CD? Did you get one for your yellow CD?

Ms. HSUE. I think around this year.

Mr. WYLIE. This is very important.

Ms. HSUE. It is 1099.

Mr. WYLIE. That is for the yellow CD?

Ms. HSUE. OK, I really don't know exactly, but I did, only I remember, I did my income tax.

Mr. WYLIE. Can you remember whether you got a 1099 for your yellow CD?

Ms. HSUE. That is the one, 1099?

Mr. WYLIE. It might be. Well, could we have a copy of it for the record, Mr. Chairman? It might be for the blue CD.

Chairman ST GERMAIN. Go about it this way. When is the last time you got a blue certificate?

Ms. HSUE. Probably 19—I have 1983.

Chairman ST GERMAIN. 1983? When did you get the first yellow certificate?

Ms. HSUE. Must be 1984.

Chairman ST GERMAIN. And that was 6 months ago.

Ms. HSUE. Six months.

Chairman ST GERMAIN. I think Mr. Wylie wants to know if you received interest on that 6-month yellow certificate.

Ms. HSUE. OK, this year around, I think February or March, I did not receive any 1099. I went to the bank. I asked the officer, "Where is my 1099?" They said, "If you don't receive any form, you don't have to pay the tax." The bank were taking care of it. They told me.

Mr. WYLIE. They told you that since you had not received a form, that you did not have to pay the tax.

Ms. HSUE. Yes.

Mr. WYLIE. Did you fill out an income tax return for 1984?

Ms. HSUE. Yes; I did.

Mr. WYLIE. Did you include interest on your yellow CD on the form?

Ms. HSUE. The bank taking care of already. I don't even know. The bank told me, OK——

Mr. WYLIE. Who in the bank told you?

Ms. HSUE. The bank officer.

Mr. WYLIE. What person told you that?

Ms. HSUE. I don't know his name. If you sit all the bank officers in front of me, I can point out which one is it.

Mr. WYLIE. He specifically told you that you did not have to pay tax on your yellow CD?

Ms. HSUE. If you don't receive, you don't have to pay for it.

[The following supplementary statement was received from Ms. Hsue for inclusion in the record at this point:]

SUPPLEMENTAL STATEMENT OF ANNA HSUE

I would like to qualify the answers in the lines mentioned above. I was getting very tired and extremely nervous at the time and I did not really understand the question put me on transcript page 62 lines 1471, 1472. Inadvertently, because it was in my mind at the time, I brought in the 1099 Form when I should not have done so.

What I wanted to say was that when I came to pay my taxes for 1984 and I had noticed that I had not received the 1099 Form from the Bank, which I normally got every year, I went to the Bank and asked them for it. They told me not to worry, the Bank would handle the taxes. If you received the Form, you pay taxes and if you did not receive it, then you don't need to pay taxes.

Some newspapers mentioned that the people were buying yellow CDs in order to avoid paying taxes. That is not true, at least on my part. I always pay every single penny of my taxes, because it is taken out of my pay check; and the taxes I pay on my salary are much bigger than those I usnally pay on the interest in my CD and so I have no reason tc avoid paying the taxes on my interest.

When the Bank officer told me they would handle the taxes, I believed him because he is a banker and he should know better than I about the business of paying taxes.

Mr. **WYLIE**. Did you receive anything from the yellow CD?

Chairman **ST GERMAIN**. Did the bank give you interest on that yellow CD? You must have received interest, because it expired.

Ms. **HSUE**. I accumulate. I do not take out.

Chairman **ST GERMAIN**. You left it in there?

Ms. **HSUE**. Right.

Chairman **ST GERMAIN**. You left it in there to accumulate. You have already paid the tax on it.

Ms. **HSUE**. Right.

Mr. **WYLIE**. Right, did that make sense to you?

Ms. **HSUE**. I trusted their words for it. They told me, they are banking expert. If they go to hospital, ask me a question, I am nursing professional, and I will answer them. They are professional in banking business.

I take their word for it.

Mr. **WYLIE**. Their word turned out not to be very good then.

Ms. **HSUE**. That means they are taking care of it.

Mr. **WYLIE**. Did you at any time ask them for your money back on your yellow CD?

Ms. **HSUE**. I did not take any yellow CD money out from the yellow CD.

Mr. **WYLIE**. It was for 6 months, as I understand it, 6-month certificate?

Ms. **HSUE**. Yes.

Mr. **WYLIE**. It had come to maturity?

Ms. **HSUE**. Right.

Mr. **WYLIE**. You didn't ask them for your money?

Ms. **HSUE**. No.

Mr. **WYLIE**. Did you ask them if the interest was going to continue on the yellow CD?

Ms. **HSUE**. All I do is, I go renew, OK.

Mr. **WYLIE**. How much money have you lost?

Ms. **HSUE**. $33,270.28.

Mr. **WYLIE**. And that was the amount of money which you used to purchase this so-called yellow CD?

Ms. **HSUE**. Yes, accumulated with the interest, and I never took out any interest or any money out.

Mr. WYLIE. I think I need to follow up on one more question, and that is: Did the bank at any time send you a statement with reference to your yellow CD account, and how much interest you had earned?

Ms HSUE. No; they never sent me anything. Even I went back and asked them for it. I wanted 1099, and they told me if you don't receive 1099 that means you don't have to pay it.

Chairman ST GERMAIN. Ms. Hsue, let me interrupt you. I would recommend, since you don't have counsel representing you, that you not make any further references to 1099's or anything of that sort.

Mr. WYLIE. Thank you, Mr. Chairman.

Chairman ST GERMAIN. What you did was start with the blue certificate and renewed it each time you left the interest in. At one point you added another $10,000. Was that your father's money?

Ms. HSUE. That was for my local bank. I withdraw in April of this year.

Chairman ST GERMAIN. Every time you renewed you left the interest in? And that was the blue and subsequently the yellow, correct?

Ms. HSUE. The blue CD I probably had to withdraw some money, but the yellow CD, no, I never withdraw any money.

Chairman ST GERMAIN. But at the end of the term of the yellow CD's prior to this one——

Ms. HSUE. Right.

Chairman ST GERMAIN. Understand what I am saying? You received the principal and the interest?

Ms. HSUE. Yes.

Chairman ST GERMAIN. And then you made a decision to reinvest it?

Ms. HSUE. Right.

Chairman ST GERMAIN. And the last time you reinvested it was at the time of the Maryland-Ohio bank incidents, and that was when you asked again about FDIC coverage?

Ms. HSUE. Right.

Chairman ST GERMAIN. Thank you.

Mr. WYLIE. Let me follow up with one more question on that, if I may.

You took your blue CD in and received your money for your blue CD and added some more to it, and took it into Golden Pacific National Bank, and said you would like to buy a yellow certificate, or did they suggest to you that you buy yellow certificates?

Ms. HSUE. As I said, they suggested to me.

Mr. WYLIE. You said, "All right, I want to buy a yellow certificate"?

Ms. HSUE. No; they told me the yellow certificate CD was higher interest and higher minimum amount, and that on that time all the bank minimum CD is $5,000. I do have $20,000, and he suggested with higher amount with higher interest, so I took his word.

Mr. WYLIE. You said, "OK, then I'll take a yellow CD"?

Ms. HSUE. Yes.

Mr. WYLIE. And then you got the certificate there as evidence that you had purchased a yellow CD, and someone signed that certificate in your presence?

Ms. **Hsue**. Someone signed in front of me?

Mr. **Wylie**. Yes; there is a signature at the bottom of the certificate.

Ms. **Hsue**. Yes; it is right here. Oh, I didn't understand the question properly. They signed this paper. No, they are not sign in front of me, no, they just handed it to me.

Mr. **Wylie**. But the person that you were doing business with at the bank then took your money and handed you that yellow certificate?

Ms. **Hsue**. Right.

Mr. **Wylie**. Ostensibly with a signature of an officer of the bank?

Ms. **Hsue**. No, I do not see who is the one signed this paper. No. I don't know which one signed this paper.

Mr. **Wylie**. Thank you, Mr. Chairman.

Chairman **St Germain**. That is similar to going in and buying a bank check or a cashier's check. The teller gives you the cashier's check and it's signed by one of two officers of the bank. You never see who signed the darn thing, but it is a cashier's check from the bank that has been signed, I think that is a similar situation with a CD. Mr. Barnard.

Mr. **Barnard**. Ms. Hsue, the certificate that you have there before you, the date has been changed in ink. When was that changed? Was that changed in front of you or did you change it or did the bank officer change it?

Ms. **Hsue**. As I said before, the lady come over and hand me this yellow certificate, and she looked at it before she handed to me. She realized it's a 6-months CD, and if the date will be 1986 will be wrong, so she changed it in front of me.

Mr. **Barnard**. So she changed it in front of you? Ms. Hsue, what were the conditions at the bank at the time you went in for this interview? Was there a large crowd? Was it just two or three people? What were the conditions in the bank at the time that you went in to file, to talk with them about your CD?

Ms. **Hsue**. Has quite people, probably around six, seven, eight people. I don't know.

Mr. **Barnard**. Only six, seven or eight people?

Ms. **Hsue**. Right.

Mr. **Barnard**. It wasn't a real large crowd?

Ms. **Hsue**. They are on the line.

Mr. **Barnard**. The reason I am asking is because the impression that I got from some of the testimony was that there was a tremendous crowd. In fact, they surged on the bank and they had difficulty controlling the crowd at the door. I am not talking about when she bought it but when she went back. Oh, that is not the bank. I misconstrued.

When you went to the claims office, was there a big crowd?

Ms. **Hsue**. They allowed one people go in the first table at a time. When these people finished go to the second place area, then they call another people in.

Mr. **Barnard**. How many people were waiting outside?

Ms. **Hsue**. It's very crowded.

Mr. **Barnard**. Very crowded?

Ms. **Hsue**. At least I would say 20 or 30 sitting there.

Mr. **Barnard**. Was there any type of demonstration going on? Were people yelling and crying and creating a disturbance of some kind outside or inside?

Ms. **Hsue**. We thought the temporary claims office is supposed to be trying to help us to claim. When I finished, when I was so upset and terrified and I come out from the other door, I don't even see when I walk in it's not the same door as when I walk out.

Mr. **Barnard**. But you didn't recall that there was any real customer disturbance going on of any kind. I mean, the point I am trying to make is that there had to be some system to handle these claims, and I am just wondering whether the system was developed because of the fact that there was a large crowd waiting to get in, anxious about their money, you know, nervous, upset, distraught. I can't visualize the conditions, that is what I am trying to develop.

Ms. **Hsue**. As I said, I am the first group went in. When you walk into the first door, the door already shut. You don't see outside people anymore. You are isolated in the auditorium.

Mr. **Barnard**. So they were letting in four or five people at a time. You have two tables. How many people were they letting in at a time?

Ms. **Hsue**. One.

Mr. **Barnard**. To talk with four people?

Ms. **Hsue**. Yes.

Mr. **Barnard**. How long have you been doing business with the Golden Pacific National Bank?

Ms. **Hsue**. Since 1982.

Mr. **Barnard**. 1982?

Ms. **Hsue**. My first blue CD.

Mr. **Barnard**. Did you have a regular person that you did business with or did you just do business with anybody that was there?

Ms. **Hsue**. No. As I said, I walk in because of the FDIC insured, also because the Chinese gift attracted me on that time, the blue CD.

Mr. **Barnard**. You didn't have a regular officer that handled your business?

Ms. **Hsue**. No.

Chairman **St Germain**. Did you say a gift? Did they give gifts away, premiums?

Ms. **Hsue**. On that time every bank give out gifts to attract customers.

Chairman **St Germain**. Right. All the banks in New York were doing that.

Ms. **Hsue**. Right.

Chairman **St Germain**. But you were saying the Golden Pacific Bank——

Ms. **Hsue**. Yes.

Chairman **St Germain** [continuing]. Instead of giving——

Ms. **Hsue**. Chinese gift.

Chairman **St Germain**. Instead of giving a hair dryer they gave Chinese gifts?

Ms. **Hsue**. Right.

Chairman **St Germain**. And that attracted Chinese customers?

Ms. Hsue. Right.

Chairman St Germain. Thank you. I am sorry, Doug.

Mr. Barnard. But you did not have one person at the bank that you did business with?

Ms. Hsue. No.

Mr. Barnard. In other words, every time you went down you did business with a different type?

Ms. Hsue. Yes.

Mr. Barnard. I don't have any further questions, Mr. Chairman.

Chairman St Germain. Mr. Dreier.

Mr. Dreier. Thank you, Mr. Chairman.

Ms. Hsue, let me echo first what the chairman said. You have a lot of friends on this panel, and we want you to feel as comfortable as possible, and I think it is important for us to reiterate that you, under very difficult circumstances, have handled yourself extremely well.

I would like to ask a couple of specific questions. Did you have any reason to believe that the treatment that you were given in the bank was not treatment that you could trust? The reason I say that was that you discussed the fact that you are a nurse and you take pride in your profession. What I am wondering is, was there any signal to you ever received from anyone at the bank that you could not have full trust in that institution?

Ms. Hsue. No.

Mr. Dreier. Never?

Ms. Hsue. I trust everybody, and I trust FDIC. I trust the bank expert people there, and that is the reason I even ask about Ohio State insolvent bank before I renew this yellow CD. That is what they told me that bank was not insured. The bank, the Golden Pacific National Bank, was insured by FDIC. The bank officer even pointed out the window sign, FDIC, and the sign on the teller's window. That is why I took full belief.

Mr. Dreier. In the case, Ms. Hsue, of the FDIC claims office, you obviously have many friends in the room with you or people who were customers too. Do you feel that your treatment at the claims office was better or worse than the treatment that most of the other friends of yours received?

Ms. Hsue. I am not in that situation. I am the first one to go in.

Mr. Dreier. Right.

Ms. Hsue. That is all I know. I was treated terrible.

Mr. Dreier. From your discussions with others who followed you, were they treated the same way?

Ms. Hsue. Yes.

Mr. Dreier. Or any better or any worse? You felt it was exactly the same?

Ms. Hsue. Yes, they scare the people to talk in to claim. That is why they were open and it is very few people going now, because they scared from the experience of the people went in.

Mr. Dreier. Exactly how many people—and I shouldn't say "exactly," but can you give us an idea? When you said it was a large crowd, how many individuals would you say were actually at that claims office waiting when you were at the front of the line?

Ms. Hsue. OK.

Mr. Dreier. How many were behind you?

Ms. HSUE. There is a room, small room, probably has about 10 chairs. The chairs all sitting, already sitting full of the people already. Then they are on the line. To out of that room I didn't count exactly. I would say about maybe 10 chair and maybe probably 20—I don't know. I didn't count.

Mr. DREIER. Did any people have to wait outside of the office to get in?

Ms. HSUE. Yes.

Mr. DREIER. How many people were outside of the office then? Not in those 10 chairs but I mean outside of those 10 chairs.

Ms. HSUE. Oh, the first time I went in it's like quite a bit. How many I really don't know. It's crowded, that is all I remember. I try to remember.

Mr. DREIER. As Mr. Barnard had asked before, would you say that everyone there was as upset as you were?

Ms. HSUE. Yes. They are hard-earned money.

Mr. DREIER. But I mean everyone—you said that you were on the verge of tears when you were there. Was everyone waiting in that same state? Were they feeling the same way?

Ms. HSUE. After I talked to them, yes, they told me exactly their experience. I was terrified. They were terrified too, yes.

Mr. DREIER. What was the amount of your initial deposit at the bank?

Ms. HSUE. You mean the blue CD?

Mr. DREIER. The first one.

Ms. HSUE. $20,000.

Mr. DREIER. $20,000, I see. Thank you very much, Mr. Chairman.

Chairman ST GERMAIN. Mr. Manton.

Mr. MANTON. Ms. Hsue, you indicated that your first contact with the bank was in 1982. Is that correct?

Ms. HSUE. Yes.

Mr. MANTON. You were induced to deposit moneys there because they promoted the bank by giving gifts?

Ms. HSUE. Right.

Mr. MANTON. And these gifts were Chinese gifts. When you first went to the bank, you deposited $20,000?

Ms. HSUE. Yes.

Mr. MANTON. And you took that from some other bank?

Ms. HSUE. Yes.

Mr. MANTON. And you got a blue certificate?

Ms. HSUE. Right.

Mr. MANTON. Now, do you recall what the rate of interest was on that particular certificate?

Ms. HSUE. Whatever the sign outside the door. How much, 6 months' CD, the same amount. I don't remember exactly, though.

Mr. MANTON. Were you aware of the FDIC and its protections at that time? Was that something you looked for before you deposited?

Ms. HSUE. Yes, definitely.

Mr. MANTON. Then you knew what that meant?

Ms. HSUE. Yes.

Mr. MANTON. That the deposit was insured?

Ms. HSUE. Right.

Mr. MANTON. Were there signs in the window or inside the bank to that effect?

Ms. HSUE. The doors, when you walk in the doors, and tellers' windows.

Mr. MANTON. During the time that you were investing your money, you built it up from $20,000 to approximately $32,000?

Ms. HSUE. Exactly amount $33,270.28.

Mr. MANTON. Was that buildup the accumulated interest over a period of time, or did you in fact put more money into the bank?

Ms. HSUE. In April of this year, I put additional $10,000 with the accumulated interest and the total is $33,270.28. I think the blue CD at that time I did some withdraw, but yellow CD. I never withdraw any interest.

Mr. MANTON. When was the first time that you got the yellow CD?

Ms. HSUE. I think about 1984, yes.

Mr. MANTON. And when you did that, did you turn back in the blue certificate?

Ms. HSUE. In my mind at that time, in my mind yellow CD, blue CD, they are the same. The yellow CD is minimum amount, is higher interest and higher minimum amount. That is all in my mind. I remember everytime I renewed my CD, they took it back and issued a new one.

Mr. MANTON. In other words——

Ms. HSUE. So color doesn't make difference to me.

Mr. MANTON. In your mind the transaction was no different from the blue certificate, except for the fact that they had a higher minimum deposit, and they paid a little higher interest?

Ms. HSUE. Yes.

Mr. MANTON. Is that right? So the transaction was not in any way different in your mind than the one you entered into with the so-called blue certificate?

Ms. HSUE. Right.

Mr. MANTON. And you thought that all the same terms and conditions applied?

Ms. HSUE. Right.

Mr. MANTON. And therefore you felt secure that you were insured by FDIC as you had been under the blue certificate terms and conditions?

Ms. HSUE. Right.

Mr. MANTON. Thank you very much.

Chairman ST GERMAIN. I am sure you will be unhappy to hear this, Ms. Hsue, but we are going to allow you to rest for a while.

Mr. CARPER. Mr. Chairman.

Chairman ST GERMAIN. Yes.

Mr. CARPER. Could I ask one question of the witness?

Chairman ST GERMAIN. All right.

Mr. CARPER. First of all, let me just say thank you for appearing to testify today. I think you have done an excellent job.

I would also like to ask, in the testimony of Chairman Isaac, the head of the FDIC, he says in his testimony that some people who purchased these yellow certificates were tricked into thinking they had purchased an insured deposit, certificate of deposit.

He also indicates in his testimony that he thinks some people knew what they were buying and did it for reasons to avoid taxes or to avoid currency transaction requirements. Do you believe, this is my only question, do you believe that some people knew exactly what they were doing?

Ms. HSUE. No, I don't believe so. The most that people hold the yellow CD, I talk to them, they are all innocent like me. I am just like one of many, many victims.

Mr. CARPER. So, you would say not one person who bought a yellow CD knew that they were buying an uninsured——

Chairman ST GERMAIN. Tom, if this were a trial and I were the judge, that question could very legitimately be objected to. You are asking her to speculate and to enter the minds of these people. I don't think it is a fair question.

Mr. CARPER. That is my question. You don't have to answer it. Thank you, Mr. Chairman.

Chairman ST GERMAIN. Now we will hear from Ms. Wei.

Do you need an interpreter or can you try to tell your story yourself?

Ms. HUANG. Through interpreter. I would like to have an interpreter, sir.

Chairman ST GERMAIN. She would like to have an interpreter. You may proceed through an interpreter.

[Through interpreter, Mr. Lin.]

STATEMENT OF LIA-WEI HUANG

Ms. HUANG. Mr. Chairman, other U.S. Members of Congress present, I am very grateful to you, for I am delighted today to accept your invitation to come to testify at your committee.

Chairman ST GERMAIN. Excuse me just a moment. Mr. Barnard has made a suggestion.

If she has a written statement, would you take a look and see if it is legible. Is it handwritten or typed?

Mr. LIN. It is handwritten, sir.

Chairman ST GERMAIN. Would you see if you can read the statement?

Mr. LIN. I shall try, if you will accept it.

Chairman ST GERMAIN. Then, if necessary, she can assist you where you cannot read it. That will save a double reply.

Ms. HUANG. May I explain to our committe, sir. This is merely my draft to help me with my testimony, and I would prefer to say it in my own words.

Chairman ST GERMAIN. In other words, these are notes?

Ms. HUANG. These are notes.

Chairman ST GERMAIN. Then proceed.

Ms. HUANG. I am grateful to your invitation to come to testify, to come to tell my story. My name is Lia-Wei Huang, and I am one of the many victims of the Golden Pacific National Bank, for I also had deposits with the Golden Pacific National Bank.

I am one of the many victims there, who had a yellow CD. It was a day when the Golden Pacific bank declared bankruptcy that I read in the newspaper that the yellow deposits are not insured.

Chairman ST GERMAIN. Excuse me, which newspaper was that?

Ms. **Huang**. I recall it was a Chinese newspaper. It was my understanding that our money was deposited in a bank with insurance. Why is it then the FDIC will not pay our deposit back?

I went to the bank to deposit money. They gave me different types of deposit forms on certificates. Some are blue, some are yellow. They are all CD's, supposedly all insured.

When I entered the bank, how would I know that the bank was not insured? In the newspaper I also read a statement made by Mr. Kuang Hsung Chuang. He claimed that our yellow deposits were investments.

How could I possibly have used my own money to ask somebody else to invest for me? When they have made money off of my deposit they pay me only 8.25 percent. If I should lose my investment then that means I have no way to claim my investment back.

I believe you gentlemen will understand this is not a form of investment. Therefore, I would like to make it clear that I was not interested in investment, but what I did was purchase deposit.

My deposit has a due date and it also has a specified rate of interest, for it was my understanding that my yellow CD when due they would pay me with interest on time. If it was an investment, how could they possibly pay me back at my demand? On time?

And I believe you gentlemen will also understand if it was an investment, then there will be no question at all about paying interest or dividends. If it is an investment, then it is a matter of pure dividends.

It was very clear to me, therefore, we were being defrauded. We are now very anxious and we all almost every day wait in front of the Golden Pacific National Bank to wait for payment of our deposits. We are hoping that we can claim and receive the very hard-earned money that we have deposited with them legally.

My anxiety caused me an irregular daily life. I cannot sleep. I cannot eat very well either. We are all legal depositors, and we are hoping that insurance company will pay all our innocent people, because we are the ones suffer from these CD deposits.

However, FDIC has never given us a satisfactory answer. They are merely prolonging the problem. All our money has been deposited with this bank. We are in urgent need of the use of this money to solve our problems.

Our very meager amount of deposits came from the hard-working daily life and toil of my husband who is a truck driver. Sometimes he even saves his lunch money in order to have to increase our capacity for deposit.

I am bringing up two children but I will use ever spare moment I have to earn some extra money. My youngest sister now works in a restaurant. She also worked very hard to save a little whatever we have.

Our entire family we have never eaten out in any restaurant, nor have we gone to see a movie. Our sole hope and dream is to buy a home in order to create a favorable circumstance to bring up our children.

It is our hope that we can bring up our children well, so that they can become worthy members of the community and also make some contribution to mankind.

Since the housing we have now, have below standard conditions, the facilities were also very poor. They are not contributing to the proper growth and livelihood of the children.

Therefore, we have been hoping to buy a home. Because of the convenience of language and our customs, therefore in the spring this year I made deposit at the Golden Pacific National Bank.

We have been hoping to buy a home by June 30. Our bank loan has also been approved. We never expect that on June 21, the Golden Pacific National Bank, under circumstances unknown to us, suddenly declared bankruptcy.

Much less did we expect that in such a bank as the one we have chosen with the sign saying FDIC with Government guaranteed insurance. It was a shock to us, for all of us who are legal depositors with the bank. We are very angry. It is the Golden Pacific National Bank and the FDIC who are doing us harm.

They are defrauding us. The date for our purchase of a home has expired, but where can I obtain the money that we need? Where can I draw my deposit?

The bank with which I have a deposit has now disappeared. All expenses that are incurred in purchasing this home wasted. There is no hope now that I can buy a house.

This is a letter prepared by my lawyer to the attorney of the opposite party explaining my difficulties. For this I am heartbroken:

> Mr. Kuang Hsung Chuang, I wish we would stand up and speak from our conscience.
>
> We have gone through great difficulties to earn this little money we have. Why was it that when we deposit our money you didn't tell me that this is not a deposit, but an investment.
>
> If you had explained to us that it was an investment, we would never deposit this sum with the Golden Pacific National Bank. Was it your intention to continue to defraud the U.S. Government, or did you intend merely to defraud the Chinese?
>
> You even cheated your board of trustees. Mr. Kuang Hsung Chuang, you must bear responsibility for what you have done. At this congressional hearing I hope you will tell the truth.
>
> We of the yellow depositors are not asking you to invest our money. We are legal depositors. We are following the exact procedures to deposit our money with the Golden Pacific National Bank. It was never our intention to invest our money with the Golden Pacific National Bank.
>
> It must be within our legal rights to deposit and withdraw our money. Why is it that we have now lost the freedom, this liberty to deposit and withdraw our money? I now ask you to return the money I deposited through the yellow deposit CD.
>
> I walked in an FDIC insured bank, therefore FDIC must be responsible to repay our deposits. I would like to ask you to understand our difficulties. We also have the very difficult situation that we have gone through. My youngster, my children and I and my husband are all waiting for this sum of deposit.
>
> When shall I have the opportunity to see my money deposited with your bank again?
>
> You are welcome to visit where I live to see how we live, and to see our children, to see the worry that I bear every day to see that our children are growing up properly.

Chairman St Germain. Has the lady completed her statement? I believe the lady has completed her statement.

Ms. Huang. Mr. Chairman, I have made my statement to you, sir. Thank you.

Chairman St Germain. Ms. Huang, your husband is a truck driver?

Ms. Huang. That is correct, sir.

Chairman St Germain. Is he a union truck driver?

Ms. **Huang**. I am not sure. He works on his own, and I take care of the children in the family.

Chairman **St Germain**. Do you also work, Mrs. Wei?

Ms. **Huang**. Most of the time I take care of my children. Whenever I have a spare moment I try to earn some money on some odd jobs, sometimes on the side of the street.

Chairman **St Germain**. As a street vendor?

Ms. **Huang**. Yes, as a peddler, but not a regular job. I do it only whenever I have time to do so.

Chairman **St Germain**. Your sister works as a waitress in a restaurant?

Ms. **Huang**. Yes. She works as a waitress in a restaurant.

Chairman **St Germain**. And the savings deposited in the Golden Pacific National Bank—the moneys that were deposited in Golden Pacific National Bank by Ms. Huang in this yellow certificate, were the combined savings of Mr. and Ms. Huang, and Ms. Huang's sister?

Ms. **Huang**. That is correct.

Chairman **St Germain**. What was the amount of that certificate?

Ms. **Huang**. The total amount is $56,000.

Chairman **St Germain**. That was the total savings of she, her husband, and her sister, that they had accumulated to purchase a home?

Ms. **Huang**. That is correct, this is the entire families savings.

Chairman **St Germain**. I note on the copy of the Golden Pacific National Bank yellow certificate No. 11307, that again, a pen was used to change the interest rate from 8 to 8.25 percent.

Was that done in her presence or could she explain to us the circumstances?

Ms. **Huang**. I did not witness the change myself.

Chairman **St Germain**. Was Mrs. Wei the one who purchased the certificate?

Ms. **Huang**. I made the deposit, but they gave me this certificate after they have gone through somewhere else, after the typing they gave it to me.

Chairman **St Germain**. Did she have anyone with her at the time she purchased this certificate?

Ms. **Huang**. I was alone, by myself.

Chairman **St Germain**. So she deposited $56,165.56

At the time she made the deposit, did she first ask what the interest would be?

Ms. **Huang**. They explained to me there were different kinds of deposits, some 1 week, some for 3 months, some for 6 months, and then if you want to deposit for over a month, the minimum requirement is $10,000.

Chairman **St Germain**. But my question was on the interest rate, did they tell her what the interest rate would be?

Ms. **Huang**. They explained to me that if you have a minimum of $10,000 for deposit of one month, then the interest rate would be 0.1 percent higher than the others.

Chairman **St Germain**. But this was a 6-month certificate. No, it wasn't. My problem was that there was an 8 percent rate typed in, and then they changed it to an 8.25 percent.

She doesn't know how that happened?

Ms. **Huang**. I was not aware of it. I assumed that the change was made because some error appeared in the typing.

Chairman **St Germain**. The fact of the matter is it appears to me, from the way she is answering these questions, that she really didn't know how much the interest rate was going to be. She said it was going to be higher than a shorter rate, but she doesn't know what the interest rate was going to be.

Ms. **Huang**. It was explained to me only that this interest rate will be higher than the others by 0.1 percent, and that it was the only statement I heard about interest rate.

[A copy of certificate No. 11307 in the amount of $56,156.56, referred to by Chairman St Germain follows:]

NON-NEGOTIABLE CERTIFICATE

Golden Pacific National Bank

241 CANAL STREET, NEW YORK, N.Y. 10013

April 17th 19 85

11307

$ 56,165.56

THIS CERTIFIES THAT ** Lin Wei Huang and/or Shen Ping **
NAME

HAS DELIVERED TO GOLDEN PACIFIC NATIONAL BANK, Fifty-six Thousand One Hundred Sixty-five and 56/100 dollars

PAYABLE TO THE HOLDER ON June 16th, 85 WITH INTEREST AT ~~[illegible]~~ 8.25 % PER ANNUM FROM DATE.

PAYMENT OF PRINCIPAL AMOUNT WILL BE MADE ONLY UPON PRESENTATION AND SURRENDER OF THIS CERTIFICATE PROPERLY ENDORSED SUBJECT TO ABOVE SPECIFIED TERMS. NO INTEREST WILL ACCRUE HEREON AFTER THE MATURITY DATE HEREOF.

IF THIS CERTIFICATE IS ISSUED TO TWO PAYEES, IT IS UNDERSTOOD AND AGREED THAT THE OWNERSHIP HEREOF SHALL VEST IN THE PAYEES AS JOINT TENANTS WITH RIGHT OF SURVIVORSHIP AND IS PAYABLE TO EITHER OF THEM OR THE SURVIVOR AND THAT EACH PAYEE IS AGENT FOR THE OTHER TO GIVE OR RECEIVE ANY NOTICE, OR TAKE ANY OTHER ACTION AFFECTING THIS CERTIFICATE. THIS CERTIFICATE IS SUBJECT TO THE TERMS AND CONDITIONS DESCRIBED IN THE AGREEMENT BETWEEN THE ABOVE—NAMED CUSTOMER AND THE BANK DATED , 19

GOLDEN PACIFIC NATIONAL BANK

CUSTOMER'S SIGNATURE

AUTHORIZED SIGNATURE

Chairman **St Germain**. We are going to recess for 10 minutes in order to cast a vote. We will resume at 1:45.

AFTERNOON SESSION

Chairman **St Germain**. At this time the chair will call upon Ms. Ying Lee for her testimony. Does she have a prepared statement?

Ms. **Lee**. Yes; I do, sir.

Chairman **St Germain**. Is it written?

Ms. **Lee**. Yes, it is written out.

Chairman **St Germain**. In other words, could you read it for us or does she have to read it to you?

Ms. **Lee**. Either way as you like, sir.

Chairman **St Germain**. We are trying to move the hearing along, so if you could read it, and then if you have a problem she could tell you. Why don't you proceed.

STATEMENT OF SHU-YING LEE [THROUGH INTERPRETOR LIN]

Ms. **Lee**. Mr. Chairman, all U.S. Congressmen here, how are you? I am very grateful to your invitation to enable me to have this honor to be present today at the U.S. House of Representatives. My name is Shu-Ying Lee. My husband and I and a 2-year-old daughter live in New Jersey. My husband works in a New Jersey restaurant, and I am now taking care of the children of our child at home. We came here from Taiwan.

Since our English is limited, the language has been difficult for us. We have heard from a friend that the Golden Pacific National Bank is run by a Taiwanese, and for all these reasons and also for the sake of our fellow native Taiwanese and also language convenience, we moved to deposit money with the Golden Pacific National Bank. We thought that our bank deposit will provide us with the guarantee for livelihood. Furthermore, we also understand that the bank is insured by FDIC. Therefore we were quite at ease when we deposited our savings.

However, last month we hear that the Golden Pacific National Bank had declared bankruptcy. We learned this from newspaper, and immediately I thought about our yellow slip deposit certificate.

The deposit certificate clearly indicates that it was FDIC insured, but we couldn't understand why the FDIC ignores its responsibility to accept the case, as the bank is a member of FDIC, then it must enjoy the protection of insurance. For this reason we couldn't understand why did FDIC continue to prolong any decision, and even to the point of declaring itself not responsible for the deposits.

Then we also learned from newspapers that the yellow deposits were divided into two groups, those who——

Chairman **St Germain**. Excuse me, let's go back a little bit about three or four sentences back, there she mentions the certificate and FDIC insurance. See if you can find that phrase.

Ms. **Lee**. Yes; I learned from newspaper report that the Golden Pacific National Bank had declared bankruptcy. It was then I thought about the yellow deposit slips we have. Since the yellow deposit is deposited in the bank insured by FDIC, why, then, FDIC did not bear the responsibility for payment, since the bank is a member of the FDIC?

Chairman St Germain. Yes; but you read a little earlier about the certificate being FDIC insured. See if you can find that in there.

Ms. Lee. The bank is a member of FDIC.

Chairman St Germain. Not the bank. You read that the certificate was FDIC insured.

Ms. Lee. It read here the yellow slip deposit is FDIC insured.

Chairman St Germain. Is that what it said?

Ms. Lee. Yes.

Chairman St Germain. Read the sentence that comes before that.

Ms. Lee. Before that it says it was then that I thought about the yellow slip deposit certificate.

Chairman St Germain. Right. Then it says——

Ms. Lee. Then the yellow slip certificate of deposit is insured by FDIC. Why then FDIC did not bear the responsibility for accepting the case?

Chairman St Germain. You see, you read that two or three different ways now, with all due respect. Why don't we take a look at the—ask her to tell you, to read that to you and then you translate it.

Mr. Lin. It is a note written down.

Chairman St Germain. It is better to have her read.

Ms. Lee [through interpreter]. We thought with money deposited in the bank it will provide us with life insurance.

Chairman St Germain. Keep going for a little while.

Ms. Lee. Furthermore, the bank is a member of FDIC. Therefore we were much more at ease, until last month when the Federal agency declared Golden Pacific National Bank bankrupt. We have also learned from newspaper reports. It was then that we realized what we have is a yellow slip deposit. But yellow deposit also means it is depositor. Why, then, FDIC does not accept responsibility for the depositors.

Since the bank is a member of the FDIC, then all the depositors should be insured by FDIC. Why then it was only the yellow slip deposits which had been delayed again and again without any settlement. Later, from newspapers I learned that the yellow deposits were divided into the two categories of with stamps and without stamps.

Then quickly I took out the depositors for an examination. Unfortunately, I learned the yellow deposit certificate I have in my hand is one with a stamp on it. I did not know when was it that they put a stamp on the certificate.

Members of the Congress, I would like now to invite you to examine such a stamp. How could anybody clearly read such a stamp? How could anybody clearly read such a stamp?

Chairman St Germain. I would like to finish her testimony. Then we will look at the certificate.

Ms. Lee. Was the bank defrauding the depositors? A stamp should have been placed in a clear area, a clear space, so it will be visible to all, or else they should give us a notice. Why, then, they quietly put the stamp on the certificate? How can anybody read such a stamp? Then the newspapers also reported; since the Golden Pacific National Bank was under a cloud of skepticism, it was only starting with the month of May that they stopped putting stamps on the certificate. This cannot be charged to my mistake. It was a trick played by the Golden Pacific National Bank. They never used a system of a stamp until only last month they started using it.

For the reason of a sum of money I can cry without tears. The money I intended to use to purchase a car has now disappeared. I have heard that the United States unless you live in a city, otherwise if you don't have a car it's like a man without a pair of feet. The United States is a large country, with wide distribution of all facilities. Without a car then you have to depend on walking to buy anything. Then you will be extremely inconvenienced to buy anything.

Furthermore, to carry with you a child is extremely inconvenient. For the reason of this sum of money, I also have some difficulties with my husband. There is no laughter in our family, and both of us are dejected. I do not know what to do now.

Members of the U.S. Congress, it is not my mistake to deposit money in the bank. I believe all the Congressmen here will also have their money deposited in a bank. As you are depositors, you must enjoy some protection. Furthermore, this bank has been a member of the FDIC. Why does the FDIC continue to delay any settlement of accepting responsibility for depositors with yellow certificates?

Members of the U.S. Congress, please uphold justice. Please help me to get my money back. Also please help all the depositors of yellow certificates, blue certificates, to receive their deposits, so that all families with yellow certificates or blue certificates or certificates with stamps can regain their previous joy and happiness.

Thank you. Thank you all.

[A copy of the certificate referred to follows:]

NON-NEGOTIABLE CERTIFICATE

Golden Pacific National Bank

241 CANAL STREET, NEW YORK, N.Y. 10013

MAY 29 1985

12703

$ **$12,000.00**

THIS CERTIFIES THAT **LEE SHU YING AND/OR CHEN LIE SHUN**
NAME

HAS DELIVERED TO GOLDEN PACIFIC NATIONAL BANK **TWELVE THOUSAND DOLLARS ONLY**

PAYABLE TO THE HOLDER ON JUNE 29, 1985 WITH INTEREST AT 7.50 % PER ANNUM FROM DATE.

PAYMENT OF PRINCIPAL AMOUNT WILL BE MADE ONLY UPON PRESENTATION AND SURRENDER OF THIS CERTIFICATE PROPERLY ENDORSED SUBJECT TO ABOVE SPECIFIED TERMS. NO INTEREST WILL ACCRUE HEREON AFTER THE MATURITY DATE HEREOF.

Funds held by the Bank are not deposits
Therefore are not insured by the FDIC

IF THIS CERTIFICATE IS ISSUED TO TWO PAYEES, IT IS UNDERSTOOD AND AGREED THAT THE OWNERSHIP HEREOF SHALL VEST IN THE PAYEES AS JOINT TENANTS WITH RIGHT OF SURVIVORSHIP AND IS PAYABLE TO EITHER OF THEM OR THE SURVIVOR AND THAT EACH PAYEE IS AGENT FOR THE OTHER TO GIVE OR RECEIVE ANY NOTICE, OR TAKE ANY OTHER ACTION AFFECTING THIS CERTIFICATE. THIS CERTIFICATE IS SUBJECT TO THE TERMS AND CONDITIONS DESCRIBED IN THE AGREEMENT BETWEEN THE ABOVE—NAMED CUSTOMER AND THE BANK DATED 19

GOLDEN PACIFIC NATIONAL BANK

CUSTOMER'S SIGNATURE

AUTHORIZED SIGNATURE

APPLICATION FOR ISSUANCE OF WITHIN CERTIFICATE AND RECEIPT OF ORIGINAL IS ACKNOWLEDGED THIS

DAY OF ____________________ 19____.

____
PURCHASER'S SIGNATURE

Chairman **St Germain**. Now we will ask staff to bring up that certificate for us. When looking at this, it is for $12,000. There is some print superimposed upon that which was read from the other certificates. The chair would state that if I purchased this certificate in the Golden Pacific National Bank, I would not really and truly know that this was not FDIC-insured, despite the fact that—it is obviously a ploy.

The stamp is placed on here and it was designed in such manner as to be placed over the print on the certificate to make it extremely illegible, and I am wearing my glasses. I shall put it in for the record. I find it very difficult, if not impossible to understand. Do you agree, Mr. McKinney?

Mr. **McKinney**. Mr. Chairman, I totally agree. It is impossible to read, particularly for someone of my advanced years, as a grandfather. Mr. Chairman, let's face it, this instrument came out of a bank insured by the Federal Deposit Insurance Corporation. That is all people have to know.

Chairman **St Germain**. Mr. McKinney, I am going to let you see something else. I don't know if we can xerox it and have it reproduced in the record of the hearings. I hope we can.

[The bank document follows:]

客戶意見調查表

我們誠懇的希望您能
提供寶貴的意見……

The President would like to hear from you.

金洋銀行
GOLDEN PACIFIC NATIONAL BANK

MEMBER FDIC

經營服務項目

公司商業支票帳戶
個人有利息支票帳戶
活期儲蓄存款
定期存款
信用支票帳戶
貨幣市場存款帳戶
個人退休帳戶
個人貸款
商業貸款
抵押貸款
租賃業務
信用卡
VISA 旅行支票
國際匯兌（通天匯）
國際銀行業務
黃金白銀買賣業務
金洋通訊

金洋銀行的服務永遠站在時代的前端

總行地址
Golden Pacific National Bank
241 Canal Street
New York, N. Y. 10013
Phone: (212) [illegible]

孔廟分行
Confucius Plaza Branch
[illegible] Bowery
New York, N. Y. [illegible]
Phone: (212) [illegible]

法拉盛分行
Flushing Branch
[illegible] Main Street
Flushing, N. Y. 11354

休士頓代表處
Houston Representative Office
[illegible]
Houston, Texas [illegible]
Telephone: (713) [illegible]

洛杉磯代表處
L. A. Representative Office
[illegible]
Los Angeles, C. A. [illegible]
Phone: (213) [illegible]

From
Name ______
Address ______
City ______ State ______ Zip ______

PLACE
POSTAGE
HERE

THE PRESIDENT OFFICE
GOLDEN PACIFIC NATIONAL BANK
241 Canal Street, New York, N.Y. 10013

BEST COPY AVAILABLE

55

55

親愛的客戶：

閣下時常惠顧金洋銀行，本人感激莫名，在此謹致謝忱。

本人深深瞭解唯有您的支持與鼓勵才能使本行更形茁壯，如何提高本行的工作效率及提供給客戶更滿意的服務，一直是我們追求的目標，我們懇切的希望您能提供一些寶貴的意見，作為我們今後業務改進的指針。

茲附上"意見調查表"乙份，請撥冗填妥後擲還本行，每份意見調查表均將由本人親自拆閱，如果您有特別的問題需要書面解答，則請在表上簽名併註明回信地址，本人將於最短時間內作覆。耑此　敬祝

時祺

金洋銀行 董事長兼總裁

敬啓

Dear Customer

I want to let you know how pleased I am to have you as a customer of Golden Pacific National Bank.

All of us strive to meet your banking needs courteously and efficiently. We'd like to know how we are doing and what we can do to improve our service to you.

Please take a few moments and check off this questionnaire. Your answers will be most helpful to us.

If you have any special comments or any questions, please write them to me in the space indicated.

You need not sign the questionnaire. Please do sign if you wish an answer to a particular question. You will receive a written response from me.

Sincerely,

Joseph Chuang

Chairman of the Board
and President

意見調查表

How are we doing

※請於下列問題註明等級

Please check appropriate category

	極好 Excellent	好 Good	普通 Fair	不好 Poor
金洋銀行給我的一般印象是： My overall impression of Golden Pacific is:				
我認為服務的效率是： I would rate the efficiency of service as:				
我覺得對客戶禮貌方面是： I would rate the level of courtesy as:				
我對於所接觸過的貴行同仁印象為：（請註明等級） Please evaluate each of the following persons with whom you have had contact:				
電話總機服務人員 Telephone Operator				
營業部人員 Plateform Asst				
櫃枱出納人員 Tellers				
一般事務人員 Clerical staff				
客戶服務中心人員 Customer Service Representatives				
副經理 Assistant Managers				
經理 Manager				

一般評語：General Comments ____________________

本人在貴行有下列帳戶：I have the following services at Golden Pacific:

□支票帳戶Checking □儲蓄存款帳戶Savings □定期存款帳戶CDs □貸款帳戶Loan □其他Other

本人之姓名地址（此部份是否填寫悉由尊便）Your Name and Address is Optional

Name ____________ Phone ____________

Address ____________

City ____________ State ____________ Zip ____________

56

Chairman **St Germain**. You will note that this is a brochure. It begins with: "The President would like to hear from you, Golden Pacific National Bank, Member FDIC."

However, there is also a message in Chinese print, and there is a double: "Dear Customer" message. It is signed, "Sincerely, Joseph Chuang," or whatever his name is here. But above it is that same message, I assume it is the same, as I don't read Chinese, but it is in Chinese. In this instance, a promotional brochure is mailed out. The bank has made every effort to accommodate the fact that they indeed have a majority of customers who are Chinese, and many of whom do not speak, read, or write English, but are fluent in Chinese.

Now, if this same bank is issuing these certificates, these Mickey Mouse certificates as they now turn out to be, but in English only, I would say to myself, obviously Mr. Chuang, or whatever his name is, the president, went to extremes to deceive his customers. Otherwise he would have the print on here in Chinese as well, and the disclaimer of FDIC insurance would be clearly legible. So I think that the FDIC should take note, that the bank that was supervised by—I am trying to find the right adjective—supervised and examined by the almighty Comptroller of the Currency's office didn't pay much attention to these certificates and the manner in which they were issued.

True, these certificates were lost, but then they were found in 1981. They were lost for 3 or 4 years and were found again in 1985 by the Comptroller's Office. Well, that is the fault of this agency, which, incidentally, wants risk related insurance and wants to be the one that establishes the risk. So I am saying to the FDIC and the OCC—and I hope the FSLIC is listening also—these are the opening hearings, Continental Illinois and this one on the insuring of funds.

Much of what will be done with the insuring of funds depends on the efficacy and the ability of the regulatory agencies, before we can go much further in that area. So be on notice of the fact, OCC, FDIC and FSLIC, that whatever happens in these hearings and whatever happens to Continental is going to be incorporated as part of the hearings on deposits, insured funds, and so forth.

Mr. **McKinney**. Will the chair yield for a moment?

Chairman **St Germain**. Sure.

Mr. **McKinney**. Is it the Chair's intention to perhaps subpoena Mr. Chuang in September?

Chairman **St Germain**. We will discuss that at the end of this panel. I have a little statement that I am going to enter into the record, but I want to keep everything in perspective, Mr. McKinney.

Now, what we would like to do is hear from our last witness on this panel, Ms. Doris Koo, who is executive director of the Asian Americans for Equality. Do you have a prepared statement, Ms. Koo?

Ms. Koo. Yes, sir.

Chairman **St Germain**. Is it a lengthy one?

Ms. Koo. I am sorry?

Chairman **St Germain**. Is it a lengthy one?

Ms. Koo. Not exceptionally lengthy, about 10 or 15 minutes.

Chairman ST GERMAIN. I was wondering if we could have it, to xerox it afterward.

Ms. KOO. I think we gave you copies.

Chairman ST GERMAIN. We have copies?

Ms. KOO. Yes.

Chairman ST GERMAIN. Thank you.

Ms. KOO. May I proceed?

Chairman ST GERMAIN. You may proceed.

STATEMENT OF DORIS KOO, EXECUTIVE DIRECTOR, ASIAN AMERICANS FOR EQUALITY, ON BEHALF OF THE CHINESE AMERICAN COMMUNITY

Ms. KOO. Thank you, Mr. Chairman and Members of the Banking Committee, my name is Doris Koo. I am the executive director of Asian Americans for Equality, a community-based civil rights organization in New York City's Chinatown.

On behalf of the Chinese American community and especially those who have been victimized by the closing of the Golden Pacific National Bank [GPNB], I thank you for the opportunity to appear before you.

I am here today because our community has been wronged. I am here to defend the interests of the community and the people of our community.

When the OCC and FDIC closed the GPNB, they did not simply close a bank. They undermined and severely damaged the economic and social fabric of our community. They put into jeopardy the life savings of hundreds of individuals and families, many of them extended families. They disrupted the normal day-to-day operations of many businesses. They destroyed the largest financial institution in our community. And in doing so the OCC and FDIC shattered the credibility of our community banks.

The closing of the Golden Pacific National Bank highlights several issues which we believe the committee should consider:

First. To whom are the OCC and FDIC accountable? We believe that the OCC and FDIC are supposed to serve the public interest. We are not convinced that this has happened. We don't think they considered the impact of the bank closing on our community. There is no consideration of what other steps could have been taken short of closing the bank; no consideration of what steps could have been taken to maintain the bank under community control.

Second. What safeguards exist to prevent the OCC and the FDIC from becoming runaway agencies?

Third. We believe that there has been discrimination. The same standards that apply to big banks don't seem to apply to smaller local minority communty banks.

Fourth. Why is there harassment of depositors, who are merely innocent victims seeking return of their life savings? Why is the FDIC discriminating among the depositors, using a case-by-case approach?

Fifth. Did the FDIC act in a responsible manner for the public interest in the liquidation process? Is there any basis to the speculation that there was a prior agreement between the FDIC and the Hong Kong Shanghai Bank and the swift bidding process was just a formality? Is that the reason why the Hong Kong Shanghai Bank was the sole bidder?

In short, these are the five major issues that we believe have surfaced during the closing of the Golden Pacific National Bank.

Our community has been deeply hurt. To understand and fully appreciate this pain, you need to know something about the Chinese-American community. New York City's Chinatown is home to 100,000 residents, most of them immigrants. It serves as the economic and cultural center for over 400,000 Chinese-Americans living in New York, New Jersey, and Connecticut.

Our Chinatown is one of the fastest growing economic communities in this country. The average Chinese immigrant works 12 hours a day, 6 days a week. As you have heard, they work and they save just so their children can have a better life and a better future in this country.

It was just 8 years ago that our community established its first Chinese-owned bank, the Golden Pacific National Bank. Since then eight additional local banks have been chartered. Together with local business people, these banks have played a vital role in the local development and economic growth of our community. Traditionally, residents from minority communities have been redlined and have been unable to obtain financing for homes and businesses. With banks like Golden Pacific, our minority small businesses and residents for the first time have ample, courteous and prompt financing for commercial loans and credit lines to create additional jobs and provide a viable economic life for recent immigrants.

Golden Pacific National Bank has been in the forefront of this prosperous economic development. Eight years ago, the GPNB started with an equity of $3.5 million. When OCC closed it on June 21, the GPNB had a deposit base of over $150 million. It had aggressively financed small businesses and concentrated the bulk of its commercial loans—$100 million—to the Chinese community.

Over the years, its lending policies have always returned a commensurate amount of the community's savings back into the community. Specific projects that were financed included a Vietnamese shopping mall, the Chinese Majestic motion picture theater, and numerous small retail stores in Chinatown.

In the noncommercial area, the GPNB led a syndication of Chinese-owned banks to finance the purchase of a building to be used as a community day care center. It had also attempted to build a consortium to finance the construction of a senior citizens project and a community center.

For these reasons, individuals like Mr. Chuang, the former chairman and president of GPNB, as well as other business people and enterpreneurs in our community, are crucial to the economic health of our community. We cannot allow them to be scapegoated by the OCC and FDIC with unsubstantiated allegations and rumored investigations. We feel that individuals should be accountable to the law, but the Constitution guarantees that we are innocent before proven guilty.

But more importantly, we feel that institutions, especially government institutions, should be held accountable to the U.S. Constitution; that they treat all residents of this country equally and with fairness. Whatever impropriety, if any, that Mr. Chuang is alleged to have committed pales in comparison to the improprieties of the Justice Department, the OCC and the FDIC in our community.

This, Mr. Chairman, is the impact of the closing of GPNB on our community.

The way the bank was closed did not follow normal practice or due process. There is clear indication that the GPNB was not provided with equal treatment. We have heard from the chair and from different members that for the last 8 or 9 years there had never been any suggestion or indication from the OCC and the FDIC that there were any serious problems in the bank. But almost overnight they declared the bank "insolvent" and closed it without any evidence of wrongdoing. Either the OCC was negligent for the last few years, 5 or 8, or they were unusually hasty in making a decision to close the bank. We think they can't have it both ways. Obviously, the OCC does not treat other banks in the same manner.

As Chairman St Germain said in the opening remarks, when other banks such as the First Continental Bank of Illinois was on the verge of collapse, the OCC and the FDIC worked along with the Federal Reserve, and rushed in to shore up the bank so as to prevent any disruption of the local and national economy. Let's give you another example. When it was disclosed that the First National Bank of Boston was laundering money linked to organized crime, instead of shutting down the bank, the OCC imposed a mere fine of $250,000.

If there is any irregularity in the operations of GPNB, why did the OCC and FDIC not provide any evidence and/or suggest any remedy? Why did the OCC and FDIC not do everything within their power to keep the bank open while investigating all the allegations to prevent any disruption of personal lives and the local economy of Chinatown?

Instead, the OCC and the FDIC took the most extreme action possible by shutting down a viable community bank. And no explanation has been forthcoming as to why this step is necessary.

This gross insensitivity by the OCC and FDIC has shaken our confidence in the accountability and responsibility of these Government agencies to serve the public interests. In fact, we feel that the OCC and FDIC have acted in a way that puts them above the public trust. Instead of clarifications and explanations which is what we have repeatedly requested, the OCC has remained silent. Further, Mr. William Isaac, Chairman of the FDIC, insinuated that the depositors, who are the victims of this bank closing, are the criminals. We have heard statements such as the one which Chairman St Germain shared with us this morning, "those damn Chinese and those damn Catholics."

Instead of protecting the interests of the depositors, the FDIC along with the FBI have harassed, mistreated and intimidated those who have tried to file the claims. Rather than give a full account of what led to their decision and actions, the OCC and FDIC have scapegoated the members of our community.

We, the community, are not convinced that the decision to close the bank was correct. In our view, it was a serious mistake. The OCC and the FDIC must correct this mistake by holding themselves accountable for every penny that was put in the bank. And so far they have refused.

Furthermore, we think it is an insult to our community that the Hong Kong and Shanghai Bank was allowed to buy the $117 millions of insured deposits and $60 million of other assets of the GPNB for a low premium of $6.3 million. They were given the exclusive rights to buy the rest of the bank's assets and real estate properties at or below book value.

The Hong Kong and Shanghai Bank is a British-owned bank which has long had a reputation in the Chinese community of having started its fortune by financing opium merchants in China 150 years ago. It has continued to build its fortune by making money from Chinese people in China and Hong Kong. Today it has become the largest financial institution in Asia. It ranks 21st among the world's banks with assets of over $25 billion. It controls the economic lives of billions of people in Asia and around the world.

As the former New York State Superintendent of Banking, Muriel Siebert put it, "The Hong Kong Shanghai Bank can make or break people. This is not just a bank that makes friendly auto loans." Hong Kong and Shanghai Bank built its fortune from the sweat and blood of Chinese people for the last century and a half, but its record of commitment to the Chinese community has been extremely poor. Though it makes 60 percent of its worldwide profit in Hong Kong, it only has 30 percent of its total assets there. And its two branches in Chinatown, even though they hold deposits of $478 million, it had only issued less than $800,000 worth of mortgages to the community, the lowest among all banks in Chinatown.

Nonetheless, the FDIC said that they would prefer to sell the loans and other assets worth up to $100 million to the Hong Kong Shanghai Bank.

Mr. Chairman, the assets of Golden Pacific National Bank represent hard-earned savings from the Chinese community. The FDIC has turned over all these community assets to a bank with no stated commitment to community investment and economic development. In addition, we have serious questions about how open the bidding process was; and whether sufficient time and effort was put into ensuring that those people in the community who were in a position to bid have the opportunity to do so.

Today you have heard some very heartbreaking examples from yellow certificate holders who have lost their life savings before their very eyes. I would like now to add to these examples a list of other victims who were financially and morally injured by the closing of the Golden Pacific National Bank.

There are the gold certificate holders who still don't know where the gold is, according to FDIC. There are the blue certificate holders with accounts over $100,000 who have their accounts designated as IBF, not knowing whether they can get their money back. There are local merchants who have had their business accounts frozen and can't meet payroll. There are depositors who don't have the particular forms of ID. required by Hong Kong Shanghai Bank and the FDIC and were made victims of harassment and intimidation and to this date could not get their money yet.

There are the small stockholders who invested their entire life savings in a very sound bank, and there are hotel investors whose escrow account had been seized by the FDIC. All of them lost everything just last month as a result of the bank's closing.

In one real estate agency in Chinatown alone, there were seven cases of families not being able to close on the purchase of their homes, and as a result of the bank's closing, the very next day there was an unexplained run on the United Bank in California's Chinatown, which is the oldest and the largest Chinese-owned bank, with assets of over $700 million, and many, many, many more people, more than you can ever realize, are on the brink of psychological collapse. Many families are on the verge of falling apart. Many jobs have been lost, and many businesses are facing uncertain futures.

The closing of the Golden Pacific National Bank constitutes the most serious attack on the health and well-being of the Chinese community in recent history. It threatens to reverse many of the gains that we have made with much effort and sacrifice. Much of the damage that had been inflicted on us as a result of the OCC's decision and the FDIC's actions are irreparable.

We at Asian Americans for Equality have taken all the actions that we feel are appropriate and responsible in this matter. It is now up to Congress, and in particular the House Banking Committee, to act decisively and immediately to restore our confidence in Government and to compensate all victims without exception.

We are submitting a list of recommendations for congressional action.

Chairman ST GERMAIN. We will place the remainder of your testimony in the record.

Ms. KOO. OK. We would just like to highlight one of them. It won't take more than 2 minutes.

Chairman ST GERMAIN. We will place the rest of it in the record. We will now begin questioning.

Ms. KOO. Thank you.

[The prepared statement of Doris Koo on behalf of the Chinese-American community follows:]

亞洲人平等會
ASIAN AMERICANS FOR EQUALITY

TESTIMONY OF ASIAN AMERICANS FOR EQUALITY BEFORE
HOUSE BANKING COMMITTEE - SUBCOMMITTEE ON FINANCIAL
INSTITUTIONS SUPERVISION, REGULATION AND INSURANCE
DATE: JULY 31, 1985

Mr. Chairman and Members of the Banking Committee: My name is Doris Koo. I am the Executive Director of Asian Americans for Equality, a community-based civil rights organization in New York Chinatown.

On behalf of the Chinese American community and especially those who have been victimized by the closing of the Golden Pacific National Bank (GPNB), I thank you for the opportunity to appear before you.

I am here today because our community has been wronged. I am here to defend the interests of the community and the people of our community.

When the OCC and FDIC closed the GPNB, they did not simply close a bank. They undermined and severely damaged the economic and social fabric of our community. They put into jeopardy the life savings of hundreds of individuals and families, many of them extended families. They disrupted the normal day to day operations of many businesses. They destroyed the largest financial institution in our community. And in doing so the

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OCC and FDIC shattered the credibility of our community banks.

The closing of the Golden Pacific National Bank highlights several issues which we believe the Committee should consider:

1. To whom are the OCC and FDIC accountable? We believe that the OCC and FDIC are supposed to serve the public interest. We are not convinced that this has happened. We don't think they considered the impact of the bank closing on our community. There is no consideration of what other steps could have been taken short of closing the bank; no consideration of what steps could have been taken to maintain the bank under community control.

2. What safeguards exist to prevent the OCC and the FDIC from becoming runaway agencies?

3. We believe that there has been discrimination. The same standards that apply to big banks don't apply to local, minority, community banks.

4. Why is there harrassment of depositors, who are innocent victims seeking return of their lifesavings. Why is the FDIC discriminating among the depositors, based on a case-by-case approach?

5. Did the FDIC act in a responsible manner for the public interest in the liquidation process? Is there any basis to the speculation that there was a prior agreement between the FDIC and the Hong Kong Shanghai Bank and the swift bidding process was

just a formality? Is that the reason why the Hong Kong Shanghai Bank was the sole bidder?

In short, these are the five major issues that we believe have surfaced during the closing of the Golden Pacific National Bank.

COMMUNITY IMPACT

Our community has been deeply hurt. To understand and fully appreciate this pain, you need to know something about the Chinese-American community. New York Chinatown is home to 100,000 residents, mostly immigrants. It serves as the economic and cultural center for over 400,000 Chinese-Americans living in New York, New Jersey and Connecticut.

Chinatown is one of the fastest growing economies in this country. The average Chinese immigrant works 12 hours a day, 6 days a week. Highly motivated and skillful, they work to save money so that their children can have a better life.

It was just eight years ago that our community established its first Chinese-owned bank, the Golden Pacific National Bank. Since then eight additional local banks have been chartered. Together with community businesspeople, these banks have played a vital role in the local development and economic growth. Traditionally, residents from minority communities have been redlined and have been unable to obtain financing for homes and businesses. With banks like Golden Pacific, our minority small businesses and residents for the first time have ample, courteous and prompt financing for commercial loans and credit lines to create additional jobs and provide a viable economic life for recent immigrants.

Golden Pacific National Bank has been in the forefront of this prosperous economic development. Eight years ago, the GPNB started with an equity of $3.5 million ; when OCC closed it on June 21, the GPNB has a deposit base of over $150 million. It aggressively financed small businesses and concentrated the bulk of its commercial loans ($100 million) within the Chinese community. Over the years, its lending policies have always returned a commensurate amount of the community's savings back into the community. Specific projects that were financed included a Vietnamese shopping mall, the Chinese Majestic motion picture theater, and numerous small retail stores in Chinatown.

In the non-commercial area, the GPNB led a syndication of Chinese-owned banks to finance the purchase of a building to be used as a community day care center. It also started to build a consortium to finance the construction of a senior citizen project and a community center. For these reasons, individuals like Mr.Chuang, the former chairman and president of GPNB, as well as other businesspeople and entrepreneurs in our community, are critical to the economic health of our community. We cannot allow them to be scapegoated with unsubstantiated allegations and rumored investigations. We feel that individuals should be accountable to the law, and the Constitution guarantees that we are innocent before proven guilty. But more importantly, we feel that institutions, especially government institutions, should be held accountable to the Constitution; that they treat all residents of this country equally. Whatever impropiety, if any, that Mr. Chuang is alleged to have committed, they pale in comparison to the impropieties of the Justice Dept., the OCC and the FDIC in our community.

This, Mr. Chairman, is the impact of the closing of GPNB on our community.

SELECTIVE PROSECUTION OF THE GOLDEN PACIFIC NATIONAL BANK

The way the bank was closed did not follow normal practice or due process. There is a clear indication that the GPNB was not provided with equal treatment. For the past eight years, there had never been any suggestion or indication from the OCC and the FDIC that there is any problem in the bank. Almost overnight, they declared the bank "insolvent" and closed it without any evidence. Either the OCC was wrong for the last eight years, or they were wrong in making a decision to close the bank. They cannot have it both ways. Obviously, the OCC does not treat other banks in the same manner. For example, when the First Continental Bank of Illinois was on the verge of collapse, the OCC and FDIC, working along with the Federal Reserve, rushed in to shore up the bank so that no interruption of the local and national economy would occur. Another example is the First National Bank of Boston. When it was disclosed that the First National Bank of Boston was laundering money linked to organized crime, instead of shutting down the bank, the OCC imposed a mere fine of $250,000. If there is any irregularity in the operations of GPNB, why did the OCC and FDIC not provide any evidence and/or remedy? Why did the OCC and FDIC not do everything within their power to keep the bank open while investigating the allegations to prevent any disruption of personal lives and the local economy?

Instead, the OCC and the FDIC took the most extreme action possible by shutting down a viable community bank. And no explanation has been forthcoming as to why this step is necessary.

This gross insensitivity by the OCC and FDIC has shaken our confidence in the accountability and responsibility of these agencies to serve the public interests. In fact we feel that the OCC and FDIC have acted in a way that put them above the public trust. Instead of clarifications and explanations which is what we have repeatedly requested, the OCC has remained silent. Further William Isaac, chairman of the FDIC, insinuated that the depositors, the victims of this bank closing, are the criminals. Instead of protecting the interest of the depositors, they have harassed, mistreated and intimidated those who have tried to file their claims. Rather than giving a full account of what led to their decision, the OCC and FDIC have scapegoated the members of our community.

We, the community, are not convinced that the decision to close the bank was correct. In our view it was a serious mistake. The OCC and the FDIC must correct this by holding themselves accountable for every penny that was put in the bank. And so far they have refused.

THE HONG KONG AND SHANGHAI BANK

Furthermore, it is an insult to our community that the Hong Kong and Shanghai Bank was allowed to buy the $117 millions of insured deposits and $60 million of other assets of the GPNB for a low premium of $6.3 million. Furthermore, they were given the exclusive rights to buy the rest of the bank's assets and real estate properties at or below book value.

The Hong Kong and Shanghai Bank is a British-owned bank which has long had a reputation in the Chinese community of having started its fortune by financing opium merchants in China 150 years ago. It continued to build its fortune by making money from Chinese people in China and Hong Kong. Today, it has become the largest financial institution in Asia. It ranks twentieth-first among the world's banks with assets of $25 billion. It controls the economic lives of billions of people in Asia and around the world. As the former New York State Superintendent of Banking Muriel Siebert put it, "It can make or break people. This is not just a bank that makes friendly auto loans."
Hong Kong and Shanghai Bank built its fortune from the sweat and blood of Chinese people for the last century and a half, but its record of commitment to the Chinese community has been extremely poor. Though it makes 60% of its world wide profit in Hong Kong,

it only has 30% of its total assets there. And even though its two branches in New York Chinatown holds deposits of $478 million, it had issued less than $800,000 worth of mortgages to the community, the lowest among all banks in Chinatown. That's why even though they got a good deal by paying a low premium to take over Golden Pacific National Bank's assets, they refused to take responsibility for the yellow certificate holders. With such a record of total disregard for the interest of the community, it is no wonder that the former New York State Superintendent of Banking was strongly opposed to Hong Kong Bank's purchase of the Marine Midland Bank two years ago.

By extending the bulk of its loan to the Chinese community, Golden Pacific National Bank had also committed to servicing these loans. We are not convinced that Hong Kong and Shanghai Bank can foster and develop these relations. Still, the FDIC preferred to sell the loan assets to them.

The assets of the GPNB represent hard earned savings from the Chinese community. The FDIC has turned these community assets to a bank with no stated commitement to community investment and economic development. In addition, we have serious questions about how open the bidding process was; and whether sufficient time and effort was put into ensuring that those people who are in a position to bid have the opportunity to do so.

ALL SECTORS OF OUR COMMUNITY HAVE BEEN HURT

Today, you have heard some very explicit examples from the yellow certificate depositors. Now, I want to add to these examples a list of other victims who were financially and morally injured by the closing of the Golden Pacific National Bank:

a. The yellow certificate depositors have had their life savings disappear before their very eyes. Six weeks after the closing , the FDIC has yet to give an answer. Instead, the depositors have been subjected to harassment from intimidating FDIC and FBI investigators and made to feel that they were the cause of the demise of the GPNB.

b. Some residents purchased gold through GPNB. Approximately $9 million of gold have yet to be accounted for.

c. Local merchants have had their checking account funds frozen. Bill payment and payroll check disbursements were severely disrupted.

d. Insensitivity to language differences and to the problems of documentation in an immigrant community by Hong Kong Bank and the FDIC caused further delays in people getting access to their savings.

e. Again because of language problems and unfamiliarity of recent immigrants with American banking practices, family members pool their savings into single accounts of over $100,000. Unfortunately under standard FDIC rules these unknowing victims will not be compensated.

f. Blue certificate holders with funds over $100,000. had their accounts designated as IBF (Internation Bank Facility) accounts without their knowledge. Even though the blue certificates are considered bona fide deposits, these depositors have had no assurances from the FDIC that their monies will not be lost.

g. Depositors without the signature verification documents as narrowly defined by the Hong Kong and Shanghai Bank and the FDIC have been frustrated in their attempts to get access to their funds. Those with addresses abroad have also been denied immediate access to their savings.

h. Many depositors with insured accounts and funds over $100,000 have not been able to withdraw any money and were tersely advised that their accounts are on hold.

i. Small stockholders who invested their life savings in a very financially sound GPNB will now lose everything.

j. Last month, as a result of the GPNB closing, in just one real estate agency alone, there were seven incidences of families not being able to close on the purchase of their homes.

h. Our newly form network of local Chinese community banks have suffered a severe crisis in public confidence. As direct result of the GPNB closing, there was an unexplained run on United Bank, a Chinese American owned bank in California, the day after. Local banking regulators in California went to great efforts to assure the United depositors that the bank is the largest and oldest Chinese owned bank with assets of over $700 million.

CONCLUSION

The closing of the Golden Pacific National Bank constitutes the most serious attack on the health and well being of the Chinese community in recent history. It threatens to reverse many of the gains that we have made with much effort and adversity. Much of the damage that had been inflicted on us as a result of the OCC's decision and the FDIC's actions are irreparable. Asian Americans For Equality has taken all the actions that we feel are appropriate and responsible in this matter. It is now up to Congress, and in particular, the House Banking Committee, to act decisively and immediately to restore our confidence in government and to compensate all victims involved as opposed to a case-by-case judgement as advocated by the FDIC. We are submitting the following recommendations for Congressional action:

RECOMMENDATIONS FOR CONGRESSIONAL ACTION

1. Congress should pass a special Act to re-charter and reopen Golden Pacific National Bank.

2. A thorough investigation of the OCC's and FDIC's role in the Golden Pacific National Bank closing for possible negligence, and full public disclosure of all evidence substantiating the OCC's decision to close Golden Pacific.

3. Recommend that the FDIC:
   a. issue a public statement pledging to insure the accounts of Golden Pacific depositors without exception and
   b. pledge to insure the accounts to their full value, even if this sum exceeds $100,000;
   c. advise its representatives responsible for the processing of claims in this case that some form of proof of deposit and a signature sample constitutes sufficient proof for verifying a claimant's identity.

4. Recommend that the OCC reverse its decision to close the Bank.

5. Order a staff report on the closing and the testimony given during this hearing be wirtten and published.

6. Recommend compensation be paid to all Golden Pacific depositors and creditors for personal and business lossesincurred due to the bank closing.

7. Recommend that in the future, the OCC and FDIC must consult with community organizations and individuals and make all reasonable efforts to work out alternative courses of action before resorting to a bank closing.

8. Establish a mechanism by which community and minority-owned banks are required to include a credible community organization on its Board of Directors in order to monitor bank practices.

9. Establish a watch-dog group made up of credible and responsible individuals from the community to monitor bank practices and insure the enforcement of the Community Reinvestment Act, particularly for non-community based banks such as the Hong Kong Shanghai Bank.

10. Recommend the Justice Department advise the FBI not be present during the depositor claim filing process.

11. Adopt our specific recommendations concerning the OCC and FDIC.

Again, we want to thank the House Banking Committee and its Chairman, the Hon. Fernand St. Germain, and his staff, in particular, Richard Still, General Counsel; John Galloway and Chris Tow, Counsels; for this opportunity to speak on behalf of the Chinese community.

RECOMMENDTIONS FOR OFFICE OF THE COMPTROLLER OF THE CURRENCY

1. The OCC must reverse its decision to close the Golden Pacific National Bank and reopen the bank.

2. Issue a public statement that the OCC will respect due process in supervising the practices of all other minority owned community banks in the United States.

3. In the future, the OCC must work with the FDIC and responsible community organizations and individuals in order to determine the most appropiate course of action which minimizes community detriment when dealing with bank problems.

4. The OCC must improve its community liasion.

5. The OCC should establish a special office charged with the responsiblity of nuturing the growth of community and minority-owned banks due to their special needs and conditions.

6. The OCC must provide full public disclosure of its history of supervising the Golden Pacific National Bank over the last eight years, and of all the factors that went into the decision to close the Bank.

RECOMMENDATIONS FOR FDIC ACTION

1. The FDIC must:

a. issue a public statement pledging to insure the accounts of all Golden Pacific National Bank depositors without exception, and;

b. pledging to insure the accounts to their full value, even if this sum exceeds $100,000.00.

c. advise its representatives repsonsible for the processing of claims in this case that some form of proof of deposit and a signature sample constitutes sufficient proof for verifying a claimant's identity.

d. must allow claimants to re-register if they so choose, and provide them with legal counsel if they so request.

2. William Issac must issue a public retraction and apology for his statement slandering Chinese depositors as tax evaders.

3. The FDIC must provide full public disclosure of its history of auditing the Golden Pacific National Bank and its role in liquidating the Bank's assets, in particular the bidding and sale process by which the Bank was sold to the Hong Kong Bank.

4. The FDIC must work with the OCC to reverse the decision to close Golden Pacific National Bank and to reopen the bank.

5. Any future sales of Golden Pacific assets must adhere to the following procedure:

a. Bidding must be open to all interested parties (and not limited to financial institutions,) with a pre-bid package containing a description of the assets and other guidelines made readily available to prospective bidders.

b. There must be public notice soliciting bids and of the availability of pre-bid packages.

c. There must be sufficient time allowed, not less than 30 days from the date of public notice, for all interested bidders to respond.

d. Upon selection of a winning bid, a complete list of all bidders and their respective bids msut be publically disclosed.

6. The FDIC should establish a community liaison office to improve public relations, especially with minority communities.

7. The FDIC should estabalish a special office charged with the responsibility of nurturing the growth of community and minority-owned banks.

Chairman St Germain. You are way beyond your time limit. Ms. Koo, do you think Mr. Chuang treated his customers fairly?

Ms. Koo. I am sorry.

Chairman St Germain. Do you think he treated his customers fairly so far as these yellow certificates are concerned?

Ms. Koo. Mr. Chairman, I do not know Mr. Chuang, myself. I do not bank there, and so I cannot speak on that.

Chairman St Germain. Wait a second now. You extolled him in your statement.

Ms. Koo. Yes.

Chairman St Germain. Like you said before about the OCC, you can't have it both ways.

Ms. Koo. Yes. Let me explain.

Chairman St Germain. Do you want to have it both ways?

Ms. Koo. Yes. Let me explain. The presentation that we gave, we just wanted to show the track record of Chinese-owned banks, the importance of them in our community, and that the FDIC and the OCC were not considering what contributions they were making to the community.

Chairman St Germain. Ms. Koo, wait a second. Let me tell you something. I can point out a lot of banks, Penn Square Bank, for example, was making a contribution to the community, but they also were milking other banks, as well as a lot of other people, who lost millions and millions of dollars. There was a fellow out at San Diego named C. Arnholt Smith, with the USNB, of San Diego. He built all kinds of buildings which were great for the community, but he also took money out of the pockets of a lot of people. Now, this Mr. C-h-u-a-n-g, do you think he did a great deal for the community? Do you believe in Robin Hood? He gave some to the poor, but he took a lot from the other poor.

Ms. Koo. No. I think it is our intention to let the Justice Department show us evidences, proofs, substantiate some of the speculation and some of the accusations put forward by the yellow certificate depositors today. I think it is not our job to judge that. It is the Justice Department's job to prove somebody innocent or guilty. I thought what we were trying to do in that context, in speaking about Mr. Chuang, was to really stress the point of the importance of the bank to us, and that the FDIC really did a disservice to us, without consulting.

Chairman St Germain. I want to tell you, if I had my preference, to have a banker like this gentleman in my community, and have the bank lend some money in the community, but then have as many people in the community taken to the cleaners as have been taken to the cleaners by this man in the community, I would rather not have the bank or the man in the community. The fact that you do a little good doesn't make up for the fact you do a lot of bad.

Ms. Koo. No, I agree with that philosophy. I support that philsophy.

Chairman St Germain. I don't need OCC or Justice to tell me that. The people we listened to today, and the results of our investigator's findings make it very obvious that this is not the type of individual that I would nominate for "Man of the Year" in my community.

Ms. Koo. And we would support that decision. I think what we want to really come across to the committee today is that if he were the worst criminal in the world, and he is out to get every penny from every innocent victim, the problem is the decision of closing the bank just like that already created a lot more victims than just the yellow certificate holders.

Chairman St Germain. You are not going to convince me, and I am not going to convince you, so let's go on to something else.

Ms. Koo. OK.

Chairman St Germain. Page 4 of the FDIC statement—that will be read with great verve, feeling and emotion, I am sure, on behalf of Chairman Isaac—has this statement in it, I read to you, Ms. Koo, because—perchance on Monday the 24th were you anywhere near the bank?

Ms. Koo. I am sorry?

Chairman St Germain. On the 24th of June were you anywhere near the bank?

Ms. Koo. No.

Chairman St Germain. You weren't?

Ms. Koo. No.

Chairman St Germain. Where do you live?

Ms. Koo. I live in Queens, NY.

Chairman St Germain. In Queens? Was anyone in your organization near the bank that day?

Ms. Koo. June 24?

Chairman St Germain. That is the day that the lines were out there and Mayor Koch came down.

Ms. Koo. No, I was not there, and I don't think anybody from our organization was there.

Chairman St Germain. Was Ms. Hsue there?

Ms. Hsue. Yes, I was there.

Chairman St Germain. The statement reads:

> On Monday the sidewalks out side the bank were filled with an unruly crowd of over 200 people, shouting imprecations—

Whatever that is—

> shaking their fists, waving placards, accusing the FDIC of murdering the community, comparing the FDIC to Stalin and Hitler, warning the FDIC to beware the violence to come. At the peak of the demonstration the crowd attempted to force its way into the bank. The metal frame around the bank's door was twisted and the door was damaged by their rush. Only the willingness of the security personnel and the FDIC employees to block the entrance with their bodies kept the crowd from entering and attempting to take over the bank. That unnerving confrontation lasted for a short period until the police arrived and restored some semblance of order.

Is that an accurate representation?

Ms. Hsue. Yes, exactly like that. I am the one in the front also.

Chairman St Germain. Were you trying to break down the door?

Ms. Hsue. I coudn't get—in the front, yes, I was in the front. I am not get so far away.

Chairman St Germain. So they were yelling?

Ms. Hsue. Yes.

Chairman St Germain. Tell me something, what brought you to the bank that day?

Ms. Hsue. After I read newspaper, as I said before, the bank was insolvent. First the question to my mind, why is insolvent? I go to

Chinatown and to find out the story, and they don't give us any story, so I find out all the victims is waiting outside of the bank door, and we looking for the answers. That is how it start. Everybody were angry, shouting. We want the money back right away.

Chairman St Germain. The committee will be in recess for 5 minutes, and then we will resume.

[Recess.]

Chairman St Germain. The subcommittee will come to order.

Mr. McKinney.

Mr. McKinney. Thank you, Mr. Chairman.

Ms. Koo, I would like to sort of put into perspective what has been said, and that would probably be the limit of my questioning. I fully understand the dynamic growth of the Chinese community in New York. And I also fully understand the desirability of using a bank that speaks the same language, which I would refer to as an ethnic bank.

However, I think that your statement could be misinterpreted in applauding what the bank has done. It wasn't spiced sushi that we were smelling in 1981 at the bank. It was, in fact, a very definite smell of banking impropriety.

This, then, leads to your perfectly understandable indignation that the Comptroller of the Currency's Office has made what I consider to be one of its most incompetent moves. No. 1, they did not move in and take over the bank nor did they move into it and correct the problem in 1981. What is even worse is that once they referred the problem to the Department of Justice, they did not pursue the issue or supply the full information. On top of that, the Department of Justice looked at the information as being not relevant.

That is where the Chinese community's outrage should come from. As to the instantaneous, spontaneous closing of the institution, that was an outrage, and it did not show good sense. Mr. Isaac and several others will be hearing from this Member. We must not obscure, howevèr, the fact, trying to stay within the bounds of legal coverings, that something was rotten in that bank.

Not only are the poor people that we have here in front of us, but many others, are suffering because of what I consider to be an outrageous decision of the FDIC, and one that we will certainly try to correct. I don't understand how an institution can have the FDIC sticker on the door and not be an FDIC institution throughout, and if under the law that type of practice is allowed, something must be done to change it.

You can rest assured about that, but I think also we can never forget that a tremendous disservice was done to the Chinese community by the people who under the banner of helping them took their deposits and played fast and loose. An equal disservice—and as you stated, you can't have it both ways—was done by Government agencies that blundered stupidly through this situation and for 4 years, did nothing about it.

I can understand the community's rage. I cannot understand the corruption of the bank, and I cannot understand the stupidity of the Government agencies that we put in charge to overseeing this sort of thing.

Chairman St Germain. Mr. Cooper.

Mr. Cooper. Thank you, Mr. Chairman.

I appreciate the excellent testimony of the witnesses, and I want to assure you that I sympathize with your situation. I have had not just a single bank failure in my district, but I probably have the notable distinction of having had more bank failures in my district than any other Congressman in the United States, very terrible trouble; some things to go through, and my inclination immediately was to blame whatever agency I could find.

It is sad to relate that having gone through a number of these, in fact, probably around about a dozen so far, more often than not, the truly guilty party to be blamed is a neighbor, a man who held or a woman who held a very respected position in a community, but who engaged in unlawful or illegal practices that ended up, as the chairman indicated, doing grevious harm to a community. And while it is attempting to make quick judgments about an agency and employees in an agency with a very difficult job to do, more often than not, at least in my case in Tennessee, individuals have been the primary cause of the problem. And it is hard to admit that many times.

It is easier to engage in any number of conspiracy theories, that one group or another being out to get the folks who are involved with a certain bank. I have had folks claim in my area, "Well, it was only the Democrat bank that failed, therefore everybody in the agency was a Republican, and everybody was out to get us."

I have had the reverse claim. They were out to get the Republicans, because they were Democrats in the agency. But to me I would just urge those of you who are in this terrible troublesome situation to remember that it is very easy to blame the policeman.

You can get mugged on the street, and if the policeman does not handle the situation absolutely perfectly, the policeman is going to end up with a whole lot of the blame—the egg on his face when the real source of the problem is the individual criminal who did the criminal action in the first place. So I am certainly not the FDIC's biggest fan, as you all know, certainly not. And this is not something that has an easy, quick solution.

I have not heard any discussion of this so far. I don't know if you know who the stockholders are in the Golden Pacific Bank, or more particular, the members of the board of directors, because that is your first line of defense; the board of directors that should be accountable for all the actions that management takes in running a bank.

For the remaining banks in the Chinese community, I hope that those members of the boards of directors are truly doing their job and bear the full responsibilities for their actions, because it is one of the most burdensome tasks that any private citizen can try to perform. So I, Mr. Chairman, with your indulgence, wanted to make that quick statement. I don't really have any questions.

Mr. Kui. What we are trying to point out here is we are not defending Mr. Chuang as an individual, but the principle of the bank, to help the community. When he started the bank, he had a commitment that he wants to help the Chinese people in this country.

A rotton apple, a certain individual being bad, we have to come from a historical perspective that this Mr. Chuang, he is the Chinese American in this community. We don't have very much experience in banking, and have been discriminated against for a long, long time.

That is the issue we are trying to bring out. We understand there must have been some impropriety, wrong doing probably. OK. We want to leave that to the Congress, the Justice Department to investigate and lay out the fact if there is any dispute. That needs to be carried out. We support it, if there is enough sufficient evidence, but the question is, is it necessary to cause the bank, the OCC failing——

Chairman **St Germain**. Excuse me. Mr. Kui was not called upon as a witness. He is not a witness, and his testimony has not been presented. We are going over other ground. We have other witnesses to come, and that is the end of that one.

[The statement of Chairman St Germain on the absence of Mr. Kuan J. Chuang and attachments follow:]

STATEMENT OF FERNAND J. ST GERMAIN

ON THE ABSENCE OF MR. KUAN J. CHUANG

CHAIRMAN'S COMMENTS AT CLOSE OF HEARING

Having previously been notified that our scheduled witness, Mr. Kuang J. Chuang, former Chairman of the Board and President of Golden Pacific National Bank, would appear, the Subcommittee was informed only yesterday that he has declined our invitation to testify. I wish to express my deep disappointment in this matter. It was our intention to afford Mr. Chuang the opportunity to explain to this Subcommittee the reasons why, in his opinion, the Bank should not have been declared insolvent and why he felt the so-called "Yellow Certificates" were not in fact certificates of deposit.

As you know, the resolution of these issues is of keen importance to this Subcommittee and a proper inquiry for the Subcommittee in its oversight function and responsibility. Without objection, I am submitting for the record public statements Mr. Chuang purportedly made to the press regarding these two key questions. Needless to say, Mr. Chuang's sworn testimony on these matters would have been most helpful to this Subcommittee.

In addition, without objection, I am submitting for the record my letter of invitation to Mr. Chuang dated July 19, 1985 and my follow-up letter dated July 25, acknowledging Mr. Chuang's agreeing to testify.

I HAVE BEEN ADVISED THAT MR. CHUANG'S ATTORNEYS ARE PRESENT THIS MORNING AND HAVE DISTRIBUTED TO THE PRESS A STATEMENT BY MR. CHUANG. I WISH TO STATE THAT THE STATEMENT IS NOT BEING MADE A PART OF THE RECORD IN AS MUCH AS MR. CHUANG IS NOT PRESENT AND; HENCE, NOT UNDER OATH, NOR AVAILABLE FOR QUESTIONING.

FERNAND J. ST GERMAIN, RHODE ISLAND, CHAIRMAN

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CARROLL HUBBARD, JR., KENTUCKY
DOUG BARNARD, JR., GEORGIA
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U.S. HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS
SUPERVISION, REGULATION AND INSURANCE
OF THE
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NINETY-NINTH CONGRESS
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STEVE BARTLETT, TEXAS
TOBY ROTH, WISCONSIN

July 19, 1985

Mr. Kuang J. Chuang
215 McVeigh Avenue
Staten Island, New York 10314

Dear Mr. Chuang:

The Committee on Banking, Finance and Urban Affairs has primary jurisdiction over legislative issues relating to depository institutions, as well as oversight responsibility regarding the various Federal financial supervisory agencies. In that regard, this Subcommittee will be conducting hearings on Tuesday, July 30, and Wednesday, July 31, 1985, on the failure of the Golden Pacific National Bank and circumstances leading up to that failure.

The Committee's inquiry will cover a period of time beginning approximately in early 1980 and continuing to the present time. As former Chairman of the Board and President of the Golden Pacific National Bank, we want to give you the opportunity to appear before the Subcommittee and to give us your views regarding the closing of the Golden Pacific National Bank and your understanding of the operation of the bank and the events leading to its closure.

We are requesting that you appear before the Subcommittee at 10:00 a.m. on Tuesday, July 30, 1985, in Room 2128 of the Rayburn House Office Building, Washington, D. C. It is important that you bring with you any memoranda, notes, records, or other documents which would help refresh your memory about these events and which would assist you in responding to inquiries from the Committee.

We would appreciate a telephone reply by 5:00 p.m. EST, Tuesday, July 23, as to your willingness to appear. Please contact Earl F. Rieger, Counsel, telephone 202-225-4247.

Sincerely,

Fernand J. St Germain
Chairman

cc: Paul Grant, Esq.

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
NINETY-NINTH CONGRESS
2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515

July 25, 1985

Mr. Kuang J. Chuang
215 McVeigh Avenue
Staten Island, New York 10314

Dear Mr. Chuang:

This is an acknowledgement of your agreement to testify next week before the Subcommittee on Financial Institutions Supervision, Regulation and Insurance. I am advised that your agreement was transmitted via a telephone conversation between you and John Galloway of the Committee staff on July 23. You have subsequently been notifed of the change of date for your appearance from Tuesday, July 30 to 10:00 a.m., Wednesday, July 31.

Your cooperation is appreciated.

Sincerely,

Fernand J. St Germain
Chairman

FJStG:jSb

From The New York Times, July 2, 1985

Failed Chinatown Bank Defended by Chairman

By ROBERT A. BENNETT

In his first public appearance since Federal authorities closed his bank on June 21, Kuang Hsung J. Chuang, chairman and president of the failed Golden Pacific National Bank, told a news conference yesterday that the bank's depositors, creditors and shareholders would get back all their money if the Government liquidated the bank judiciously.

Golden Pacific "is a sound, good bank — in no way is it insolvent," he said.

Asked to comment, an official of the Federal Deposit Insurance Corporation, which is liquidating the bank, said, "We hope he is right, only time will tell." The official, Christie Sciacca, said much would depend on whether Mr. Chuang would cooperate with the F.D.I.C. in making assets held outside the bank available to the bank's depositors and other creditors. At his news conference, Mr. Chuang said he would cooperate.

A key issue involves sales by the bank of so-called yellow certificates — called that because they were printed on yellow paper. The proceeds from the $27 million of these certificates sold by the bank in New York and the $15.3 million sold by the bank's offices in Boston, Houston and Los Angeles were used to finance investments that were not carried on the bank's books. These included the bank's headquarters on Canal Street, which is owned by a partnership in which Mr. Chuang's wife is the general partner.

It was mainly because of these yellow certificates that the Comptroller of the Currency, which regulates federally chartered banks, declared Golden Pacific insolvent. The Comptroller said the yellow certificates were Golden Pacific's liabilities, while the assets backing those liabilities were owned by others.

Other issues also have been raised. Many holders of the certificates contend that they had been misled into believing that the yellow certificates were F.D.I.C.-insured deposits. In addition, William M. Isaac, the F.D.I.C.'s chairman, has raised questions in a letter to the House Banking Committee about whether the yellow certificates had been used to evade taxes and whether Golden Pacific had violated the Bank Secrecy Act by not reporting cash transactions of $10,000 or more.

Mr. Chuang's lawyers declined to allow him to answer questions. But David M. Brodsky of Schulte Roth & Zabel said: "We know of no evidence to support these allegations. We ask the F.D.I.C. to stop making comments that scare people in the community."

The New York Times/Jose R. Lopez

Kuang Hsung J. Chuang, chairman of Golden Pacific National Bank.

In his remarks before the reporters, Mr. Chuang, himself an attorney, said: "Neither my wife nor I have stolen or taken any money. Everything we did we thought was legal."

Mr. Chuang said that he appeared before the press against the advice of his lawyers because he wanted to dispel rumors in the Chinese community that he had disappeared. "I didn't run away," he said.

Mr. Chuang said he had not appeared in public since the bank's closing because he had been emotionally and physically upset by the abruptness of the move.

"A few days ago the Government took away the bank from me without notice and without giving me a chance to respond," he said.

According to his lawyers, last Wednesday — a day before the F.D.I.C. said the bank's insured deposits to the Hongkong and Shanghai Banking Corporation — the authorities had given Mr. Chuang until noon to find a buyer for the bank. The deadline was extended until 3:30 P.M., but, according to the attorney, that still did not give Mr. Chuang enough time.

From the American Banker, June 27, 1985

Chinese Bank Head Meets FDIC

Run in San Francisco Adds to Chinese-American Banking Woes

By PHILIP T. SUDO
and MOLLY HOOPER

The head of the failed Golden Pacific National Bank in New York's Chinatown met Wednesday with federal officials to deny any misconduct and to attempt to save both the bank's deposits and the "Chinese-American banking relationship." That relationship suffered a further blow this week when a run broke out on a Chinese savings bank in San Francisco.

Kuang Hsung "Joseph" Chuang, chairman and president of Golden Pacific, went to Washington, D.C., to meet with senior officials of the Federal Deposit Insurance Corp., according to Allan Jordan, a spokesman for Mr Chuang.

Mr. Chuang denied any wrongdoing, accounting irregularities, or other misconduct in connection with the management of the bank, Mr. Jordan said in a prepared statement.

The spokesman described the purpose of Mr. Chuang's trip as "preserving the integrity of the deposits of the institution and to preserve the Chinese-American banking relationship in all Chinese communities through the United States."

The spokesman declined to comment on the outcome of the meeting or to say whether further talks were planned.

Golden Pacific, located in the heart of Chinatown, was closed by the Comptroller of the Currency Friday for "recently discovered, serious accounting discrepancies." Rumors have swirled through the community's Chinese-language newspapers that a bank official had been selling fraudulent certificates of deposit without ever establishing an account for those funds.

Earlier this week, Alan Whitney, a spokesman at the bank for the FDIC, said all insured deposits would be repaid, but indicated it is unlikely the agency is responsible for repaying the bogus CDs, known as "yellow CDs" for the color of the certificate paper. He also said the bank's records, most of which were kept in Chinese, were in such disarray that it was unlikely the agency could do anything but liquidate the bank.

In response, outraged depositors stormed the bank's doors Monday, chanting anti-FDIC slogans and contending the bank should not have been closed. Police were called, and Mayor Edward I. Koch arrived in an attempt to quell the crowd, but both were greeted with anger.

Federal insurance safeguards provide for almost immediate repayment in the event of a bank or thrift failure, but many Asian depositors, according to regulators, mistakenly believed they might have to wait years for restitution.

Koch *Pleads for Coverage*

Tuesday, Mr. Koch asked members of the House Banking Committee to guarantee federal coverage for the yellow CDs, warning that "if the FDIC were to default on its contractual obligations, in fact or implied, it would strike a devastating blow to this community."

In published news accounts, the mayor is reported to have said, "It came as a terrible shock" that FDIC officials investigating the bank's records "questioned the agency's obligations to insure those defrauded."

Estimates as to how much was invested in the yellow CD's have run as high as $70 million, although Mr. Koch said he believed the figure was closer to $15 million.

"Whatever fraud or scam that was involved here," the mayor said, "it has apparently been going on for a number of years."

A spokesperson for the Comptroller said Wednesday that the office had received a tip indicating that some of the bank's liabilities were not being booked. The office made a surprise examination of the bank last Monday, the spokesperson said, and found the tip to be accurate.

The spokesperson also said, however, that the bank's asset quality was generally good.

A review of Golden Pacific's 1984 income statement shows the bank had $163.8 million in assets and $148.8 million in deposits. Of its $86 million loan portfolio, $33.5 million was in real estate and $25.6 million was in commercial loans; only $5.1 million was in personal loans.

Net chargeoffs were low: 0.31% last year, which improved over the 0.60% in 1983.

Despite the solidity of these loans and the improvement in asset quality, however, the bank's earnings and return-on-asset figures were strangely down last year. The bank earned $782,000 in 1984, compared with $874,000 in 1983, with a 1984 return on assets of 0.50%, compared with 0.73% in 1984. Profitable banks of comparable size generally have returns on assets of more than 1%.

Run on San Francisco Savings Bank

In San Francisco, block-long lines of Asian depositors mobbed United Bank branches this week to withdraw funds, prompted by rumors of impending insolvency at the savings bank.

United Bank officials reported Wednesday that at least $15 million had been withdrawn in the last two days and that, while lines were smaller that morning, many customers were waiting as early as 7:30 a.m. to withdraw their funds when the bank opened at 9 a.m.

In an effort to stem the run, United officials, joined by thrift regulators, held a news conference Tuesday night to assure depositors that the rumors were false and the savings bank was sound.

"I can assure you and all our customers that their money is safe," United chairman and president Ben L. Hom told reporters, stressing that all deposits up to $100,000 are federally insured.

In an unusual move, officials from the State Department of Savings and Loans and the Federal Home Loan Bank of San Francisco, which helps stabilize the operations of member thrifts, also attended the news conference.

David F. Sevtner, senior vice president, said there was no reason for depositors to panic. "United Bank is a solvent operating institution with a positive net worth," he said. So far, United has not turned to the federal government for funds to meet the emergency.

$7.5 Million Loss Expected in Quarter

The run followed United's announcement last Wednesday that it expects to report a loss of $7.5 million for the quarter ending June 30, largely because of bad real estate development loans. United lost $1.4 million in 1984 and $650,000 in the first quarter of this year. As a result, United's net worth, according to Mr. Hom, has shrunk 50% during the past year to $8 million — a figure that represents only 1% of assets, sharply below the required 3% minimum.

United, which was founded in 1974 and now has 28 branches, has $525 million in deposits, of which an estimated 60% is said to come from the Chinese community. The run on deposits has occurred exclusively at three branches that primarily serve the Asian community, Mr. Hom said.

The bank chairman said that while the report of anticipated losses for the second quarter was the key reason for the depositor withdrawals, other factors also fueled customer fears, including news of Friday's failure of Golden Pacific. In addition, he cited the introduction of a new computer system, which temporarily slowed customer service, and the collapse earlier this month of Overseas Trust Bank in Hong Kong, where many of the emigrants had come from.

Mr. Hom said that he visited the three major branches serving the Asian community here on both Monday and Tuesday to reassure depositors. While bank officials have had to make special cash deliveries two or three times a day at these branches, United should be able to meet current levels of withdrawal for at least two more weeks, Mr. Hom said.

However, in an effort to win back funds, United is promising to waive penalty fees on early withdrawals of demand deposits if they are redeposited within 30 days. In addition, Mr. Hom said the bank will not charge customers for new check orders required because of the new computer system.

One of the few remaining minority-owned financial institutions in San Francisco, United has grown rapidly since it was founded by Mr. Hom and seven other investors in 1974. During the last five years, United has expanded at an average annual rate of 40%.

Federal laws enacted earlier this year now prevent thrifts from growing faster than 25% a year without obtaining regulators' permission. The limits were imposed after a number of fast-growing institutions collapsed, straining the reserves of the Federal Savings and Loan Insurance Corp., which insures deposits up to $100,000. ■

BEST COPY AVAILABLE

From The Wall Street Journal, July 1, 1985

FBI Is Probing Failed New York Bank For Possible Fraud and Embezzlement

By ANTHONY M. DESTEFANO
Staff Reporter of THE WALL STREET JOURNAL

NEW YORK—The Federal Bureau of Investigation is probing possible bank fraud and embezzlement involving the failed Golden Pacific National Bank in Chinatown, an agency spokesman said.

The probe began as FBI agents were gathering information from officials of the Federal Deposit Insurance Corp., which is handling the transfer of $117 million in insured deposits to the Hongkong & Shanghai Banking Corp. Apart from confirming the existence of the investigation, an FBI spokesman declined to elaborate.

Offices of Golden Pacific opened Friday as FDIC-insured branches of Hongkong & Shanghai, the large Asian concern that owns 51% of Marine Midland Banks Inc.

FDIC Evidence

Meanwhile, William M. Isaac, chairman of the FDIC, said there is evidence that some customers holding certificates from Golden Pacific knew they weren't placing funds in insured deposit accounts and may be denied FDIC insurance.

Mr. Isaac said in a letter to Rep. Fernand St Germain (D., R.I.), who heads the House Banking Committee, that some of these depositors may have purchased the certificates to evade taxes and currency controls as well as to obtain higher interest rates than paid on regular deposit accounts.

"In those cases, we would have no choice but to deny insurance coverage," Mr. Isaac said in the letter, which was made public Friday. In an interview, however, he added the FDIC was still investigating the matter and hadn't made any decision yet on coverage. He said any customers denied FDIC insurance would be entitled to share in proceeds from the liquidation of Golden Pacific assets.

Some Chinatown residents said they believed the certificates represented FDIC-insured deposits.

Included in that amount is $17 million in so-called "yellow certificates." The sale of those certificates is being examined by the FDIC to determine if they are insured. Attorneys for the former chairman of Golden Pacific, Joseph Chuang, said the bank had treated the certificates as non-insured investments of customers for whom the bank acted as agent. The lawyers said the funds were deposited in a custodial account and then invested.

Real Estate Investments

Among those investments, Mr. Chuang's lawyers said, were bankers acceptances and real estate projects. Mr. Chuang's wife is the general partner in one realty partnership which rents out a Canal Street building to the bank, the attorneys said. But they added Mrs. Chuang was involved only to facilitate the operation of the partnership, had no ownership interest and didn't take a salary.

Golden Pacific was closed by the Comptroller of the Currency June 21 and declared insolvent. While $117 million in insured and secured deposits was later transferred to Hongkong & Shanghai, about $20 million wasn't transferred, pending a study of whether those funds were eligible for FDIC coverage.

Mr. Chuang's attorneys said the property was held this way because of federal restrictions on banks owning property. They also claim federal officials knew of the uninsured investments for years and apparently acquiesced in the practice, only to suddenly treat the funds as bank liabilities and declare Golden Pacific insolvent when it wasn't. The Comptroller's office is still studying the matter and the House Banking Committee plans to investigate the closing of Golden Pacific.

Attorneys for Mr. Chuang, who has denied any misconduct in Golden Pacific's management, said they were aware of the FBI investigation but had no comment.

Chairman **St Germain**. I have been advised earlier that Mr. Chuang's attorneys, who are present at today's hearing, have distributed to the press a statement by Mr. Chuang.

I wish to make it very clear that this statement is not being accepted by the subcommittee, nor is it being made a part of the record. Inasmuch as Mr. Chuang is not present and available for questioning on his statement under oath, as have been these other witnesses, we feel that that particular statement, which I have not read, is probably full of doubtful items. When Mr. Chuang is ready to come and testify, we will be glad to give him an opportunity to testify on the record and to present himself for questioning by the Members of the subcommittee.

Until that time, we are not going to accept any of his bold, rash statements without his being present.

Mr. **Barnard**. Mr. Chairman.

Chairman **St Germain**. Mr. Barnard.

Mr. **Barnard**. Mr. Chairman, do you anticipate that maybe he would be subpoenaed.

Chairman **St Germain**. I prefer allowing the gentleman an opportunity to appear voluntarily. If he does not, the subcommittee will meet in an executive session and have a discussion as to what should be the next step, if any. I want to take the opportunity at this point, on behalf of all the members of the subcommittee, to thank each and every one of you for appearing today.

All to often, the regulators and maybe even some of us in Congress have a tendency to look at the technicalities of a case. Inadvertently, we overlook the human tragedy that results from such a failure. Your testimony, your presence here today, is invaluable to this subcommittee. It once again reminds us, when all is said and done, that we are here to serve the people.

I know what all of you and your families must be going through, and we certainly appreciate the frustrations that you are experiencing. This subcommittee will do all that is possible to see to it that justice is served in this matter, keeping in mind the adages most of us read in the law schools that we attended, that justice delayed is justice denied.

Thank you, one and all. You are now excused and we will now have the FDIC panel approach the table.

Next we will hear from the panel consisting of Michael B. Burgee, Deputy General Counsel, Regional and Corporate Affairs, Federal Deposit Insurance Corporation; A. David Meadows, Associate Director, Division of Bank Supervision, FDIC; Michael A. Hovan, Jr., Associate Director (Operations), Liquidation Division, FDIC; Edward Lutz, Regional Director for the Divison of Bank Supervision, FDIC; and Michael Martinelli, Regional Director for Liquidation, FDIC.

Would you please raise your right hands?

[Witnesses sworn.]

I understand you have a written statement.

Mr. **Burgee**. We do, Mr. Chairman.

Chairman **St Germain**. Who would like to make the presentation?

STATEMENTS OF MICHAEL B. BURGEE, DEPUTY GENERAL COUNSEL, REGIONAL AND CORPORATE AFFAIRS, FEDERAL DEPOSIT INSURANCE CORPORATION; A. DAVID MEADOWS, ASSOCIATE DIRECTOR, DIVISION OF BANK SUPERVISION, FDIC; MICHAEL A. HOVAN, JR., ASSOCIATE DIRECTOR OPERATIONS, LIQUIDATION DIVISION, FDIC; EDWARD LUTZ, REGIONAL DIRECTOR FOR THE DIVISION OF BANK SUPERVISION, FDIC; AND MICHAEL MARTINELLI, REGIONAL DIRECTOR FOR LIQUIDATION, FDIC

Mr. BURGEE. We do, Mr. Chairman. Before reading Chairman Isaac's remarks into the record, we feel it is appropriate to respond to the remarks made earlier this morning about a comment attributed to a senior official at FDIC. We would like to say that if such a statement was made, such a statment nor the sentiment behind it—does not represent the attitude of the FDIC generally.

Our people offer 52 years of proud service and have taken considerable pride in the fact that they have been wherever and whenever they have needed to be to try to mitigate the consequences of bank failures.

As you know, Chairman Isaac had planned to appear today, and his schedule wouldn't permit his personal appearance, regrettably. His statement reads as follows:

We are pleased to have this opportunity to describe the FDIC's response to one of the most stressful and complex situations our employees have ever encountered in a period generally marked by extreme pressure and challenge. The handling of the failure of Golden Pacific National Bank in New York City's Chinatown offers yet another example of the skill and dedication of an extraordinary group of public servants.

Chairman ST GERMAIN. Excuse me, the people that think they are important are the press, and they are indicating to me that they are not hearing too well, so maybe you could bring that microphone down a little bit. You have to sort of caress these microphones. They need a lot of tender loving care before they function properly.

Mr. BURGEE. As you know, Golden Pacific was determined by the Office of the Comptroller of the Currency on June 21, 1985, to be insolvent. Based on that determination, Deputy Comptroller of the Currency Michael Patriarca closed the bank and appointed the FDIC as receiver.

The FDIC's New York office had been advised by the Comptroller's Regional office in mid-May of an informer's allegations of fraud in the bank, and the FDIC was invited to join in an examination to be scheduled as soon as possible. However, neither the FDIC nor, apparently, the Comptroller was aware of the severity of the bank's problems until the week of the failure. As a result, the decision to close Golden Pacific was an abrupt one, giving the FDIC no opportunity to prepare for the closing.

The FDIC's ability to quickly marshall a closing team was hampered by the fact that Golden Pacific was just one of three bank closings we handled that day, and only one of four to occur that week. Our New York staff had to be augmented by persons pulled from other important assignments in San Juan, Dallas, San Francisco, Washington and elsewhere. A number of employees were able to reach New York late Saturday, and others arrived as quickly as travel arrangements could be made.

By Monday, we had approximately 200 employees in the bank's main office and its three branches working around the clock at the arduous task of preparing for a payoff of the bank's insured depositors.

This leads to the first of several areas of controversy: The decision to pay depositors' claims up to the $100,000 insurance limit rather than arrange a merger, an approach that would have protected depositors with claims above the insurance limit.

There have been inflammatory charges by some parties in the Chinatown community that the FDIC's decision to pay off insured depositors constituted discriminatory treatment. They claim the bank was singled out for this treatment because it was a minority-owned bank serving a minority community.

We can understand and sympathize with the emotional reaction to the bank's failure, but irresponsible statements such as this—particularly in the face of our repeated explanations of the facts and the law—are insulting and do a disservice to those individuals who have been adversely affected by the bank's closing.

For the record, I want to state as clearly as I can that the FDIC's actions in this failure have been guided, as they always are, solely by the law and a desire to be as fair as possible. The existence of substantial evidence of fraud in the bank's activities and of an undetermined volume of liabilities that did not appear on the bank's books, made it impossible to quantify the potential losses and therefore impossible to determine that a merger would be less costly to the FDIC than a deposit payoff. In short, we could not satisfy the "cost test" in the FDI Act and had no choice but to pay off insured depositors.

Upon entering the bank that Friday night, our personnel found that many bank records were incomplete or missing. Indeed, the bank's books would still be out of balance by over $4 million 6 days later. Some documents were in Chinese, and many of the bank's employees spoke and read only Chinese. The bank's computer systems were outdated and inadequate. Attempts to develop account listings were further hampered by the absence of social security numbers on about one-third of the bank's 21,000 active deposit accounts and by the fact that many of the bank's customers had identical surnames.

In the face of this daunting challenge, our employees adopted a round-the-clock schedule that permitted little sleep; most meals consisted of take-out orders from neighborhood fast food establishments. When I visited the bank on June 27 to observe our operations and thank our employees for their efforts, I was moved by the determination and professionalism they exhibited despite the long hours, grueling pace and unfavorable working conditions.

Tension was heightened by concerns for the safety of our personnel. On Monday, the sidewalks outside the bank were filled with an unruly crowd of over 200 people, shouting imprecations, shaking their fists and waving placards accusing the FDIC of "murdering" the community, comparing the FDIC to Stalin and Hitler and warning the FDIC to "beware the violence to come."

At the peak of the demonstration, the crowd attempted to force its way into the bank. The metal frame around the bank's door was twisted, and the door was damaged by their rush. Only the willingness of security personnel and FDIC employees to block the entrance with their bodies kept the crowd from entering and attempting to take over the bank. That unnerving confrontation lasted for a short period until the police arrived and restored some semblance of order. Daily follow-up demonstrations kept the tension level high throughout the remainder of the week.

Our original objective, given the chaotic state of the bank's records was to attempt to have checks prepared for distribution to insured depositors by the following Friday. By Monday, however, our staff had made sufficient progress in analyzing the records that it began to appear feasible to transfer insured deposits to another bank, which could reopen the failed bank's offices and resume banking services with only minimal interruption. We immediately began to develop a "bid package," and invited 36 banks, including 7 located in Chinatown to participate in a competitive bidding process for the right to receive the insured deposits.

On Wednesday, June 26, the FDIC approved the transfer of approximately $117 million in deposits known to be insured or fully secured to the Hongkong & Shanghai Banking Corp. Two days later, the failed bank's main office and three branches reopened as branches of Hongkong & Shanghai, and the insured deposits of Golden Pacific once again were available to their owners. This transaction resulted in the FDIC's receipt of a $6.4 million premium from Hongkong & Shanghai, measurably increasing funds available for ultimate distribution to the uninsured creditors of Golden Pacific.

At the time the bank closed, its book liabilities amounted to approximately $157.1 million, including about $9.8 million in 170 accounts that exceeded the insurance limit. Categories of funds whose eligibility for deposit insurance coverage could not be immediately determined included approximately $13.1 million placed through the bank's five domestic loan production offices, $6.9 million of international banking facility funds and $14.2 million of unbooked transactions.

On July 11, the FDIC announced its determination that the $13.1 million in deposits accepted by Golden Pacific at its loan production offices in Houston, Chicago, Boston, San Mateo, and Monterey Park were eligible for deposit insurance coverage. By law, such offices are not authorized to accept or disburse funds, but may only process documentation in connection with loan transactions.

After an investigation, the FDIC concluded that these funds were clearly identified and entered on the books of the bank as deposits and that the bank had paid deposit insurance premiums on them. Accordingly, while the bank was prohibited by law from accepting deposits in these offices, the FDIC decided that, given the unusual circumstances of the case, the bank's illegal branch-banking activities should not affect the insured deposit status of the funds.

Factual and legal determinations with respect to funds placed with Golden Pacific's International Banking Facility and in unbooked certificates have proven to be much thornier. As you know, Mr. Chairman, under the law IBF deposits are not entitled to FDIC insurance, and no FDIC assessments are paid on them.

The $14.2 million in unbooked certificates were not entered on the bank's books, no FDIC assessments were paid on them and at least some of them stated on the face they were not deposits and not insured by the FDIC. Questions about these unbooked certificates, which became known as "yellow certificates" because of the color of paper on which they were printed, have been particularly troublesome to resolve. We understand from the Comptroller's Office that the bank began offering these instruments in 1980 or 1981 when interest rate ceilings on deposits were still in effect.

They appear to initially have been issued in relatively large denominations to a limited clientele. According to the Comptroller's Office, the proceeds of these certificates were pooled and invested in the bank's own banker's acceptances and were reflected on the bank's books as liabilities. This practice, we understand, was discontinued sometime in 1981. At this or some later point, the bank began issuing the certificates in a much larger volume, and the use of these certificates was taken off the bank's books and deliberately concealed from examiners.

The interest rate paid on the yellow certificates was generally higher than permitted by law for deposits. No form of identification was required, information required for tax purposes was not taken and no tax reporting was done. Investments in the certificates were not included either in reports to the bank regulatory agencies or in currency transaction reports.

On the basis of these circumstances and interviews with Golden Pacific employees, it seems reasonable to presume that at least some of the persons investing in these certificates may have been well aware that such advantageous features were not indicative of an insured deposit.

The last sentence of each yellow certificate states that it is subject to an agreement between the customer and the bank as of a date to be filled in on the certificate. Some certificates bore the following stamp on their face: "Funds held by the bank are not 'deposits'. Therefore, not insured by the FDIC." However, the stamp is faint.

Senior officers of Golden Pacific have claimed that purchasers of the certificates signed the agreement referred to on the certificate, but we have not turned up any signed agreements. In any event, the documents appear to be contradictory. The certificate states that the customer is entitled to payment on a date certain with a certain rate of interest, while the agreement purports to absolve the bank of all liability.

Bank officers have taken the position that the bank was acting in an agency capacity and that the certificates do not represent liabilities or deposits of the bank. The Comptroller determined on June 21 that the certificates were indeed liabilities of the bank and that assets to match those liabilities did not appear on the bank's books, thus resulting in the bank's insolvency and failure.

Holders of the certificates who have filed claims with us assert that, despite assertions to the contrary by bank officers, investors were misled by bank employees into thinking the yellow certificates were insured deposits. They claim they did not see, receive, or sign any agreement. Many certificate holders have little or on grasp of the English language. Many of the claimants have presented certificates that were not stamped with the notice that their funds were not FDIC insured.

Funds acquired by Golden Pacific through the sale of yellow certificates apparently were used by one or more insiders of the bank to finance projects in which they had an interest. The exact path of the funds from the customers' hands into those investments is still unclear.

From this outline, it should be apparent that we have been confronted with a perplexing jumble of contradictory claims and records. It is possible that at least some purchasers of the certificates may have been defrauded into believing that they were purchasing an insured deposit. It also seems that others may have been aware they were not investing in an insured deposit.

They may have been motivated by a desire to evade payment of income taxes, by a desire to avoid currency transaction reporting requirements, by a desire to obtain a higher interest rate or by some combination of these or other motives. Whatever the motivation, the FDIC has no statutory authority whatsoever to grant insurance coverage where the parties did not intend to create a deposit relationship.

The FDIC is moving as quickly as possible in its analysis of the facts and circumstances surrounding these transactions and hopes to reach some conclusions in the not too distant future. At the same time, we are making a concerted effort to keep the community and the failed bank's customers informed of developments. Senior FDIC officials have taken part in a number of meetings with community leaders and are continuing to participate in weekly meetings with the community at large to answer questions.

The failure of Golden Pacific National Bank and its aftermath have been painful for many people and a shock to the bank's community. We at the FDIC have strived to minimize that pain by working as diligently as humanly possible to protect the bank's insured depositors and to resolve questions of entitlement to insurance coverage.

In closing, I want to express again my deep appreciation for the long hours and incredible personal sacrifice contributed by many FDIC employees from throughout the country. I also want to thank Congressman Bill Green and his staff for their valuable help in opening up lines of communication between the FDIC and community leaders in Chinatown at a time when communication was absolutely vital.

I will be pleased to respond to any questions members of the subcommittee might have.

Chairman St Germain. How come you don't mention Mayor Koch and the assistance he gave? Didn't he go down there as a result of a phone call from the FDIC personnel at the beginning?

Mr. Burgee. I believe he did.

Chairman St Germain. Did he not?

Mr. Burgee. Yes.

Chairman St Germain. I wonder how come he is not thanked. Bill Green is a great guy, but why doesn't Mr. Isaac mention Eddie Koch? He did indeed go down to the bank.

Mr. **Burgee**. Yes, sir.

Chairman **St Germain**. Did he not provide assurances to the assembled crowd when they were visibly upset? Didn't he assist in calming the crowd? Who was there at the time on this panel?

Mr. **Lutz**. Not onsite; no one.

Chairman **St Germain**. We don't have any onsite people here?

Mr. **Lutz**. I visited the bank.

Chairman **St Germain**. I see a young man back there. Why don't you step forward and join us. You are Alan Whitney?

Mr. **Whitney**. Yes, I am.

Chairman **St Germain**. Raise your right hand.

[Witness sworn.]

Chairman **St Germain**. Were you there on the 21st or the 24th?

Mr. **Whitney**. The 24th.

Chairman **St Germain**. That was on Monday?

Mr. **Whitney**. Yes.

Chairman **St Germain**. Was Mayor Koch contacted?

Mr. **Whitney**. I believe he was called by Chairman Isaac.

Chairman **St Germain**. As a result, therefore, Eddie Koch came down and spoke with some of you in the bank and went up and addressed the crowd.

Mr. **Whitney**. He spoke to the crowd immediately upon arrival.

Chairman **St Germain**. He spoke with somebody at the FDIC, perhaps Bill Isaac. He told me that before he went down, he asked for assurances—Mayor Koch—that he could speak to the crowd and say, yes, that the bulk of them would be receiving payment.

Mr. **Whitney**. He received that assurance from Chairman Isaac; yes, sir.

[In regard to the colloquy above, the following correspondence is inserted in the record concerning the appearance of Mayor Koch at the demonstration on June 24, 1985 at the Golden Pacific National Bank:]

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
NINETY-NINTH CONGRESS
2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515

June 26, 1985

Honorable William M. Isaac
Chairman
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, D.C. 20219

Dear Mr. Chairman:

As you know there are questions about the manner in which some deposits at the now-closed Golden Pacific National Bank of New York will be categorized for payouts by the Federal Deposit Insurance Corporation. I am enclosing a copy of a letter from New York Mayor Ed Koch which raises some of these questions.

Such questions, of course, are critically important to the depositors at this particular bank, but they also have significant impact on the manner in which the FDIC insurance is regarded by bank depositors throughout the nation and the law and regulations under which the fund operates.

Therefore, I want a full report on the circumstances of the various issues being raised by FDIC in connection with the closure of the Golden Pacific National Bank and the details of FDIC's plans for payouts of insurance, particularly as they relate to the special deposits referred to in Mayor Koch's letter and news reports. It is important that we have this report in hand at the earliest possible moment.

It is my intention to conduct hearings on the problems at Golden Pacific National Bank and the issues surrounding the closure of the bank including the liabilities incurred for the insurance fund.

Sincerely,

Fernand J. St Germain
Chairman

FJStG:sJs
Enclosure

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Banking, Finance & Urban Affairs Committee

THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007

June 25, 1985

Banking, Finance and Urban
Affairs Committee
Rayburn House Office Building
Room 2129
Washington, D.C. 20510

Re: Golden Pacific National Bank

Dear Representative:

Yesterday I was called by officials of the Federal Deposit Insurance Corporation (FDIC). I was informed that a demonstration was underway outside the Golden Pacific National Bank, located in New York City's Chinatown, which was closed last Friday by order of the Comptroller of the Currency.

The demonstrators, most if not all of whom were frustrated and angry depositors, had gathered outside the bank, and I was asked if I would assist the FDIC officials on the scene in reassuring them that their money was federally insured. Of course I agreed and went immediately to the site of the demonstration.

It goes without saying that the principle underlying the creation of the FDIC was that if you put your money and your trust in a federally insured bank, you had no reason to worry about a bank failure. In addition, I was told by the head of the FDIC that not only would all deposits be reimbursed up to $100,000 per account, but the depositors would receive their monies before Friday of this week. I felt secure in that knowledge and so reassured the many demonstrators who were yelling and crying out their fear of losing their life's savings. It came as a terrible shock to me that the FDIC officials placed in charge of the bank expressed some uncertainty about fulfilling their obligations when a question was raised concerning certain deposits made in a particular investment program available at this branch.

It seems that a bank official may have defrauded a number of depositors and absconded with their funds. The FDIC officials in charge of the bank questioned the agency's obligation to insure those defrauded.

This position is unacceptable for the following two reasons. First, these depositors were put on notice that this was a FDIC bank and relied on that federal protection. As I understand the facts, all their deposits were receipted. Second, whatever fraud or scam that was involved here, it has apparently been going on for a number of years. It is my understanding that the FDIC routinely audits its member banks. The public and the bank's depositors had a right to rely on the thoroughness and completeness of such audits. For these two reasons the FDIC must live up to its responsibilities.

One final point, New York has one of the largest Chinese-American communities in the country. It is a growing, hard-working, prospering community. If the FDIC were to default on its contractual obligations (in fact, or implied), it would strike a devastating blow to this community. I urge you to take whatever actions are necessary to see to it that public confidence is restored and that these depositors are fully reimbursed as quickly as possible. The City of New York stands ready to assist in the process in any way that we can.

Sincerely,

Ed Koch

Edward I. Koch
MAYOR

FDIC
Federal Deposit Insurance Corporation
Washington, D.C. 20429

Office of Congressional Relations and Corporate Communications

October 9, 1985

The Honorable Fernand J. St Germain
Chairman
Committee on Banking, Finance,
and Urban Affairs
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

At the conclusion of the first day of your Committee's hearings into the failure of Golden Pacific National Bank, we spoke briefly about the assistance given the FDIC by New York Mayor Edward Koch. As a postscript to that conversion, I wanted to apprise you of the FDIC's appreciation for the willingness of Mayor Koch to assist us in dealing with a volatile situation.

As you'll recall from our testimony, the FDIC was faced on the Monday following the bank's failure with a demonstration by a number of the bank's customers that posed some threat of physical danger. The customers were in an extremely emotional state, and at one point attempted to forcibly enter the bank.

At Chairman Isaac's request, Mayor Koch immediately went to the bank and attempted to calm the situation by speaking to the demonstrators. His quick response and willingness to help were greatly appreciated both by Chairman Isaac and those of us who were on the scene.

Sincerely,

Alan J. Whitney
Corporate Communications Officer

cc: Mayor Koch

Chairman **St Germain**. OK, page 9, they may have been motivated by a desire to evade payment, and so forth.

Mr. Burgee, I and Mr. McKinney looked at the certificate presented to us by Ms. Ying. You were present in the room at the time.

Mr. **Burgee**. Yes.

Chairman **St Germain**. Did you look at that particular certificate?

Mr. **Burgee**. I did not see that particular certificate.

Chairman **St Germain**. OK, Ms. Ying, are you still here?

Did we return your certificate to you? I would like Mr. Burgee to take a look at it.

As it goes by you, I want you to glance at it. I want Graham to take a look too, Mr. Burgee.

Mr. **Burgee**. Yes, sir.

Chairman **St Germain**. OK. Mr. Burgee, that looks like somebody put a wet stamp on it, or maybe a carbon of something or other. If, in reality, you or Ms. Ying, who doesn't read English, were looking at it would that indicate to you that it is not federally insured?

Mr. **Burgee**. The chairman's statement acknowledges that the stamp is faint, and I would agree as would others who have looked at the stamp in the New York offices, that the legibility is clearly a problem.

Chairman **St Germain**. You heard our discussion earlier when Mr. Chuang felt it was to his advantage. He had some things in Chinese, as well as English printed around the bank. It is in English and the disclaimer is in English, and the bulk of the people are non-English reading individuals.

Mr. **Burgee**. Correct.

Chairman **St Germain**. To my mind, I think it is obvious that there was a very definite attempt by Mr. Chuang to mislead these people into thinking, yes, we have FDIC insurance, because he knew the cautious people. They were not gambling. What is that Chinese game the Chinese people like to play? Is it mah-jong that has the cards with the big numbers?

I used to be stationed in Brooklyn, and there was a Chinese fellow in the pharmacy there with me. He used to go out at night and spend thousands of dollars when playing this game, but these are not the gambling types.

Ms. **Hsue**. Pie kow.

Chairman **St Germain**. These are not pie kow players. These are families saving for their homes, so they could raise their children properly. When I read the statement: "They may have been motivated by a desire to evade payment of income taxes by a desire to avoid currency transaction reporting requirements." Well, that is for drug traffickers, but it is a nice way of saying it.

That is to catch the underworld and drug traffickers and by a desire to obtain a higher interest rate, or perhaps a combination of the two. Why do people put money in CD's of varying maturities as opposed to putting them in saving accounts?

Mr. **Burgee**. I would suspect the motivation in most cases is to earn the highest possible return.

Chairman ST GERMAIN. The higher rate of interest. So why is that listed in this statement as though there is something evil about it; to earn a higher rate of return on your savings? I do it. I bet you do it, don't you? I mean, that is why we deregulated. Remember the Garn-St Germain Act, and the one before it, Financial Institutions—where we phased out regulation Q. We created it. What was that—to phase out these limitations on the payment of interest?

That is what that is called. We have to forget that we used to deny people the best rate of interest except for the very wealthy. We are now in modern times and the goal is to get a high rate of return on your money. Some of you are approaching age 39. I want to tell you about the Gray Panthers who came in here, militated, looking for a higher rate of return on their savings, and said its time depositors got a break, let alone the borrowers. They are sick and tired of subsidizing borrowers.

What gives us this? They may have been motivated by a desire to evade payment of income taxes. Tell me, has anybody testified before the FDIC or given information to the FDIC that they invested in these certificates or new people invested in these certificates to evade payment of taxes?

Mr. BURGEE. Yes, sir.

Chairman ST GERMAIN. Give us a little more information on that.

Mr. BURGEE. We have conducted informal interviews with former key banker officers, most of whom have indicated to us that many customers came into branches or the main office of the bank asking for the yellow certificate, the one for which there was no tax reporting.

The fact of the matter is that, as best we can determine, no information in any case, otherwise required for tax reporting purposes was taken by the bank with respect to yellow certificates, and certainly we have not found any evidence that any tax reporting was done by the bank with respect to yellow certificate interest.

Chairman ST GERMAIN. No tax reporting was done by the bank?

Mr. BURGEE. Yes.

Chairman ST GERMAIN. Now, you have some former officers of the bank?

Mr. BURGEE. Yes, sir.

Chairman ST GERMAIN. Did they leave that bank to go to another bank, for a better position? What were the circumstances of their leaving the bank?

Mr. BURGEE. Excuse me, they were still in the employee——

Chairman ST GERMAIN. By Golden Pacific, at the time of the bank's closing?

Mr. BURGEE. Correct.

Chairman ST GERMAIN. How many people did they say asked them for certificates that were tax-free?

Mr. BURGEE. No definite number given. In point of fact, most testified that that question, about deposit insurance was rarely raised, but in many cases when questions were asked about the nature of the yellow certificates, that was stressed by branch managers as a marketing feature of the instrument; that there were no tax consequences.

Chairman **St Germain**. I thought you said that the people who purchased them purchased them for that reason. Now you are saying the branch manager stressed the fact that there were no taxes to be paid?

Mr. **Burgee**. From the statements that occurred, it occurred in both ways. In some cases, we are told, customers would ask for the type of certificate which had no tax liability attached to it.

Chairman **St Germain**. You heard the testimony this morning Some of them were told that the bank would pay the taxes; is that not correct?

Mr. **Burgee**. Yes, sir.

Chairman **St Germain**. Is that what the branch managers were telling these people?

Mr. **Burgee**. We haven't heard that statement.

Chairman **St Germain**. How many people came in and asked for yellow certificates on which no taxes had to be paid?

Mr. **Burgee**. We have no specific number.

Chairman **St Germain**. No specific number? Therefore, we have now labeled and painted all holders of yellow certificates, and we are saying that they purchased these, because they wanted to evade taxes?

Mr. **Burgee**. No, sir, I think Chairman Isaac's statement is quite clear that some may have been motivated.

Chairman **St Germain**. Some may have been motivated. That dilutes that one substantially. The desire to avoid currency transaction reporting requirements—tell me about that.

Mr. **Burgee**. In point of fact——

Chairman **St Germain**. Incidentally, I am questioning Mr. Burgee. If anyone else here has something to offer, in all fairness, please raise your hand, and I will recognize you.

Mr. **Burgee**. We have found no evidence of any currency reporting whatsoever by the bank with respect to funds taken in in consideration of the issuance of yellow certificates.

Chairman **St Germain**. Excuse me, were there certificates bought with cash?

Mr. **Burgee**. According to branch managers, many of them were purchased in large cash sums.

Chairman **St Germain**. All right.

Mr. **Burgee**. There were a number of——

Chairman **St Germain**. How many?

Mr. **Burgee**. Again, this was over a period of a couple of years, and according to the branch managers and we have no specifics as to the number.

Chairman **St Germain**. It could be anywhere from 5 to 500?

Mr. **Burgee**. That is correct.

Chairman **St Germain**. Are we aware of any specific instances where these were purchased in order to avoid currency reporting requirements?

Mr. **Burgee**. We do not have any specific information in that regard apart from what the branch managers have told us. We have information from the State Department that approximately $10 million worth of funds held in the form of yellow CD's in Taiwan, purchased with U.S. dollars, were presumably purchased to circumvent currency restrictions there, as well as our own domestic currency reporting requirements.

We further understand through informal discussions with the FBI that that is one of the matters to which they are looking into themselves.

Mr. McKinney. Could I clarify a point of law with the chairman here?

Chairman St Germain. Yes.

Mr. McKinney. Isn't it true that regardless of what someone is buying from a bank, if, it is over $10,000 it is a requirement that the bank fill out a report regardless of what the customer's wishes?

Chairman St Germain. The gentleman is absolutely correct.

Now, let me ask you this: We have gone through this list, and covered the issue of nonpayment of taxes and avoidance of currency transactions. We have also agreed that, there is nothing wrong with wanting a higher interest rate because you and I like to do the same thing and Bill Isaac does, too. If he doesn't, I would be awfully surprised.

We have found that, yes, the branch managers told you that some were looking to avoid taxes. Furthermore branch managers said that some of these were purportedly purchased with cash. The State Department has some information, but even if that were the case, it has no bearing on whether or not these yellow certificates were insured or not; does it?

Mr. Burgee. I would like the opportunity to discuss the relevance of these facts. First, I think it should be stressed that, contrary to the impression that some of the earlier witnesses apparently hold, the FDIC has not made a final determination that the yellow certificates will not be accorded the benefit of deposit insurance.

Indeed, we are working night and day to try to come to some resolution on that.

The real issue is, what was the intent of the parties, the depositor and the bank at the time the money came into the bank. The definition of deposit set forth in the FDI Act is the unpaid balance of money received or held by the bank and in the ordinary course of business. The circumstantial evidence that we have discovered thus far suggests that in some situations funds coming into the bank which the bank recognized by he issuance of yellow certificates were not handled in the ordinary course of the bank's business.

That is what has presented us with the legal conundrum.

Chairman St Germain. All that which you cite are things the bank, not the depositor; are concerned with. You asked about intent, and I don't know. Let's see whether you are an attorney or not, for to come up with intent, all you can do is look at the circumstances surrounding it.

Intent is not like when you take your blood pressure or temperature. To arrive at an individual's intent is very, very, very difficult, and you have to—you know what the best evidence is, the written document.

Mr. Burgee. The documentary evidence is not the sole evidence with respect to the objective manifestations of the parties. The old case law, indeed, would suggest that one must look at the prior dealings, the conduct, the words and the practices between the parties to try to arrive at a determination of intent.

We think it is highly relevant for example that some customers may have had ordinary so-called blue certificates from the bank, at the same time holding yellow certificates.

Chairman **St Germain**. How about those that rolled them over into yellows, when they were told you could get a higher rate on the yellow? That is highly significant, too.

Mr. **Burgee**. It is. There are many highly significant factors that bear on this decision.

Chairman **St Germain**. Now here is a memorandum. Subject, Regulation D, questions raised by yellow certificates issued by Golden Pacific National Bank. This is from the Federal Reserve Bank of New York, July 3, 1985:

> This is in response to your request for a memorandum on the question whether the so-called yellow certificates issued by Golden Pacific National Bank on reserveable time deposits for purposes of Regulations D(1), and whether they are comparable to obligations of Golden Pacific arising from the rediscount of eligible bankers' acceptances, which obligations the legal department previously opined were not subject to reserve requirements.
>
> Conclusion: In my opinion it is clear that these yellow certificates are time deposits and subject to reserve requirements, and that for purposes of Regulation D, they are fundamentally different from the acceptance obligations that were the subject of the department's previous opinion.

A copy of memorandum of the Federal Reserve Bank of New York dated July 3, 1985 follows:]

FEDERAL RESERVE BANK
OF NEW YORK

OFFICE MEMORANDUM

COPY

DATE July 3, 1985

TO

FROM

SUBJECT Reg. D Questions Raised by "Yellow Certificates" Issued by Golden Pacific National Bank

This is in response to your request for a memorandum on the question whether so-called "yellow certificates" issued by Golden Pacific National Bank (copy attached) are reserveable time deposits for purposes of Regulation D,1/ and whether they are comparable to obligations of Golden Pacific arising from the rediscount of eligible bankers' acceptances, which obligations the Legal Department previously opined were not subject to reserve requirements.

CONCLUSION

In my opinion it is clear that these yellow certificates are time deposits and subject to reserve requirements, and that, for purposes of Regulation D, they are fundamentally different from the acceptance obligations that were the subject of the Department's previous opinion.

DISCUSSION

A. The Acceptance Obligations

In the previous transaction, Golden Pacific sold eligible acceptances of Golden Pacific to sophisticated customers. The customers placed funds in a custodial account in Golden Pacific's trust department and the entire amount of such funds were invested in eligible acceptances. The customer did not receive any interest from Golden Pacific on the funds placed in the account; the customer's return was confined to what was earned on the acceptances purchased.

1/ 12 C.F.R. § 204.

COPY

Ms. Motylewski opined2/ that Golden Pacific's obligations arising from the rediscount of eligible acceptances were not "deposits" for purposes of Regulation D. This opinion was evidently based on an express provision in Regulation D3/ and was, in my view, clearly correct.

B. The Yellow Certificates

The "yellow certificates" state that the named person has delivered funds to Golden Pacific and that the principal amount with interest at a specified rate will be paid at maturity upon presentment of the certificate. They are labelled as non-negotiable certificates. Regulation D defines "deposit" to include the "unpaid balance of money . . . received . . . by a depository institution . . . which is evidenced by an instrument on which the depository institution is primarily liable."4/ In my opinion the yellow certificates, evaluated in accordance with the terms that appear on the face of the certificates, are within the quoted definition of deposit and bear no resemblance to the acceptance purchases that were the subject of the Department's prior opinion.

The last sentence of the certificate provides that it is subject to the terms and conditions of an agreement between the person named on the certificate and the bank. I am not aware of the contents of any such agreement and therefore cannot determine whether the terms of the agreement would alter the opinion expressed above.

The following statements are also typed faintly on the certificate. "Funds held by the bank are not deposits. Therefore

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2/ Legal Department memorandum from Joyce E. Motylewski to Legal Files (March 9, 1982).

3/ Section 204.2(a)(1)(vii)(E) excepts from the definition of deposit any obligation of a depository institution that arises from the creation, discount and subsequent sale by a depository institution of its bankers acceptance of the type described in paragraph 7 of section 13 of the Federal Reserve Act [i.e., an eligible bankers acceptance].

4/ 12 C.F.R. § 204.2(a)(1).

are not insured by the FDIC." These statements would not exempt from reserve requirements an obligation that is otherwise a "deposit", with an exception not relevant in this case.[5]

GR/pjf gr

Attachment

cc: Messrs. Corrigan
Timlen
Oltman
Schadrack
Thieke
O'Sullivan
Ringsmuth
Ms. Motylewski

COPY

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[5] Certain subordinated debt obligations are excepted from the definition of deposit if they satisfy a number of requirements, one of which is a statement in boldface type that the obligation is not a deposit and not insured by the FDIC. The yellow certificates do not meet the other criteria, such as that the obligation state on its face that it is subordinated to depositors. In fact, it does not even satisfy the boldface type requirement . See 12 C.F.R. § § 204.2(a)(1)(vii)(C); 217.1(f)(3)(i).

NON-NEGOTIABLE CERTIFICATE

Golden Pacific National Bank

241 CANAL STREET, NEW YORK, N.Y. 10013

12712

______ , 19____

$ ______

THIS CERTIFIES THAT ______
NAME

HAS DELIVERED TO GOLDEN PACIFIC NATIONAL BANK ______

VOID

6/8/85

PAYABLE TO THE HOLDER ON ______ WITH INTEREST AT ______ % PER ANNUM FROM DATE.

PAYMENT OF PRINCIPAL AMOUNT WILL BE MADE ONLY UPON PRESENTATION AND SURRENDER OF THIS CERTIFICATE PROPERLY ENDORSED SUBJECT TO ABOVE SPECIFIED TERMS. NO INTEREST WILL ACCRUE HEREON AFTER THE MATURITY DATE HEREOF.

[illegible] by the bank are not deposits. If

Therefore are not insured by the FDIC.

IF THIS CERTIFICATE IS ISSUED TO TWO PAYEES, IT IS UNDERSTOOD AND AGREED THAT THE OWNERSHIP HEREOF SHALL VEST IN THE PAYEES AS JOINT TENANTS WITH RIGHT OF SURVIVORSHIP AND IS PAYABLE TO EITHER OF THEM OR THE SURVIVOR AND THAT EACH PAYEE IS AGENT FOR THE OTHER TO GIVE OR RECEIVE ANY NOTICE, OR TAKE ANY OTHER ACTION AFFECTING THIS CERTIFICATE. THIS CERTIFICATE IS SUBJECT TO THE TERMS AND CONDITIONS DESCRIBED IN THE AGREEMENT BETWEEN THE ABOVE NAMED CUSTOMER AND THE BANK DATED ______ , 19____ .

GOLDEN PACIFIC NATIONAL BANK

______
CUSTOMER'S SIGNATURE

______
AUTHORIZED SIGNATURE

111

Chairman **St Germain**. I realize there is a nine page legal opinion devoted to this that seems to be evading my staff constantly. Every time they go some place it is someplace else. Maybe you could help us to corral that one so we could get a look at it?

Mr. **Burgee**. I would enjoy the benefit of their rationale as well. I would point out in looking at the three page summary from which I believe you were reading, that apparently this opinion is not based on the benefit, if you will, of the facts that we have based on the interviews with former bank employees, and the conduct between certain depositors and the bank over the years, which might call into question the intent of the parties to form a deposit relationship.

I would just like to say on this subject that we are bound and determined to try to resolve this as quickly as possible under the administrative powers that we have to adjudicate this type of issue.

Section 1821(F) of our act provides that if we are uncertain as to the validity of claims for deposit insurance, we may require the adjudication of a court of competent jurisdiction to resolve the matters.

We feel that we have a responsibility to make such determinations to the extent we can. It would be far faster, and I would assume less costly.

Chairman **St Germain**. I would assume so because Mr. Burgee—and I am going to go to you in a second, Congressman Cooper—Mr. Burgee, this is the same fellow who sat here with Mr. Isaac when he was here, and I sent Graham Northup back to see Mr. Isaac. We were trying to find out the cost benefit or the cost on Continental Illinois.

Remember the cute press release on Continental Illinois, where the world was reassured that no one would lose any money? Now a lot of people interpreted that as saying that when you had $100,000, $200,000, or $500,000 in there, you were covered by insurance. Indeed, it was worded cutely, so it could be intepreted that way, and in fact, the press all took the bait.

They swallowed it hook, line, and sinker. They wrote stories around the world to that effect. But if you did read it carefully, and I have to give Bill credit, all it said was that nobody would lose any money. He didn't say how that would be effectuated.

It was effectuated by commiting massive amounts of funds, using the Federal Government, and using everything else possible to save Continental Illinois. Therefore, the sophisticated depositors from around the world, the Arab sheiks, the drug traffickers, those whom we can't really convict, but who have a lot of money from drug traffic, who had big amounts in Continental Illinois, were about to pull out because they had sharp money managers. They were all protected.

They were all protected, and I don't know about Stu McKinney and Jim Cooper, but this fellow up here feels a little funny about the fact that they were all protected. Yet these people who worked together as families to save money, they are being told to wait and wait and wait.

Mr. Burgee, you are obviously an attorney, I guess, from the way you cited a few things here. So I guess you saw the same thing on your law school wall? "Justice delayed is justice denied."

Let's keep in mind as we go along here, the fact that we took care of everybody in Continental Illinois.

Mr. Cooper, you want to ask a few questions before we go to vote?

Mr. COOPER. Thank you, Mr. Chairman.

I would like to ask some questions which bear on several situations that have occurred in Tennessee. We have several depositors there who were told that they could only be covered up to $100,000, even though these individuals had several different accounts at a bank.

For example, one account might be in the husband's name, another account in the husband's and wife's name, various types of ownership. In many cases these individuals were led to believe by promotional literature distributed by the bank that all their deposits would be covered, so long as you had it in a slightly different form of ownership, there was no problem.

The FDIC, however, has come in and told these folks you get $100,000, and that is it; see you later. So it seems to me it is a problem that is very similar to the situation with the yellow certificates.

It is a slight technicality that the FDIC or the OCC is preventing these people from reclaiming their hard-earned money, and I would just urge the FDIC to be aware of that problem, and the various rural banks in Tennessee and other places, where depositors have been forced to go without their own money, due to misleading advertisements promoted by bank management.

Does the FDIC have any comment regarding those situations in Tennessee?

I realize that this is a hearing on Golden Pacific.

Mr. BURGEE. I am not personally aware of those situations; but I can assure you we will be happy to revisit the particular facts involving your constituents.

Mr. COOPER. I have a further concern. I read with great interest that you were willing to make whole the depositors in EDAC or loan production offices, even though those offices by law are not allowed to take deposits.

That to me struck me as a great leap in legal thinking. I congratulate you on your humanitarian goals, your willingness to take on obligations that you are not required to take on.

But we have a situation in Tennessee where an industrial bank was not insured by the FDIC, all their depositors lost everything, and if you are willing to reach out and to insure deposits in an institution that by definition was not capable of taking deposits, to me if you are willing to reach out in that direction, you had better watch out to see what other institutions you might be reaching out to.

Mr. BURGEE. Your point is well taken, Congressman. Indeed we are concerned about the precedental effect to the fund of our legal determinations. However, I assume you are referring to Southern Industrial Banking Corp.

The obvious distinction in this case is that the loan production offices were facilities of Golden Pacific an insured bank. The funds taken in at those offices, which was an illegal practice as far as the bank is concerned, were booked properly on the records of the main office. The customers held the normal so-called blue certificates of deposit, which largely promoted our decision with respect to those transactions.

Mr. COOPER. I think you understand the thrust of my point?

Mr. BURGEE. I do.

Mr. COOPER. If you make whole the yellow certificate depositors, how am I going to explain that to the fellows in Tennessee who had joint accounts and separate accounts as individuals, and if you make whole loan production office deposits, it is going to be difficult to explain the fine points of this to the Southern Industrial Banking Corp. depositors, 7,000 of whom are without their money, so it is a very troublesome intricate area.

And to the extent that this committee, or I individually can be helpful to you in drawing some clearer lines, I want to do that, because not just people in Chinatown but people all over the country are encountering problems which are similar to this.

In FDIC examinations, do you study the promotional literature that a bank distributes?

Mr. BURGEE. I will defer to David Meadows of our Division of Bank Supervision.

Mr. MEADOWS. I would say that a study of promotional literature is not necessarily undertaken as part of the examination. The examiners frequently do review it, because they do see it.

But there is even a better discipline here. The competition tends to keep promotional literature by competing institutions in line. That may or may not have worked in the instant case, however.

Mr. COOPER. It seems to have occurred quite often at least in Tennessee, the willingness of a banking president to promote his bank beyond legal right to do so. It has not necessarily been stopped by competition.

Mr. MEADOWS. As you know, Mr Congressman, I was in Memphis, TN, for several years, and we answered a lot of letters from disgruntled bankers who were complaining about promotional literature of other banks.

Mr. COOPER. Do you think as an additional safeguard it might be wise for the FDIC or the OCC to gradually begin to take into account what banks might be telling their customers about their rates and responsibilities, or would that be an undue burden on the examiner?

Mr. MEADOWS. We do review what banks are telling customers as part of our compliance examination program. However, we cannot be present at all times, and do not get an opportunity to see every piece of promotional literature, every radio ad, and so forth, that banks might put out.

Mr. COOPER. Should a bank be required to maintain a file of its promotional literature, so that you could go back and check to see how the public has been led or misled into believing certain things?

Mr. LUTZ. Mr. Congressman, I think they normally do. We do have a separate regulation that covers advertising in our rules and regulations. As Dave pointed out that is covered during the compliance examination.

Mr. COOPER. So every FDIC bank should have a complete file——

Mr. LUTZ. I can't say unequivocably that every bank has a file, but I think in many cases they do.

Mr. **Cooper**. Are they legally required to keep such——

Mr. **Lutz**. I don't know the answer to that.

Mr. **Cooper**. To me that might be a helpful indication. It also might be helpful if we could require each certificate that a bank issues to be kept at last on file if not shown regularly to the regulators so that you could see these yellow certificates, and see what it said on the face or not, printed, not stamped, when it was insured by the FDIC, so that that would not be a misleading piece of information to the average customers.

Mr. **Meadows**. I think so long as every banker makes an honest effort to make such information available to the bank, such a program might work, but I think, in looking at Golden Pacific National Bank, it appeared that maybe two banks were in operation, one in full view of the public, and another operating somewhere in the shadows.

Chairman **St Germain**. You mean in full view of the public, the examiners or regulators?

Mr. **Meadows**. One bank was operating in full view of the public and the examiners and another was operating somewhere in the shadows, very difficult to say.

Chairman **St Germain**. Operating who knows where.

Mr. **Meadows**. Yes.

Chairman **St Germain**. Because the OCC knew about these certificates in 1981, and all of a sudden they—it is almost like that genie disappearing act—reappeared on the scene in 1985. Then all of a sudden the OCC came upon these yellow certificates, right?

Mr. **Meadows**. I think that is correct.

Chairman **St Germain**. One of the questions I am going to ask the OCC tomorrow is how come you let those disappear on you, because they did. They allowed them to disappear. That is the OCC, not the FDIC. The FDIC wouldn't do that.

We are going to be in recess for 5 minutes, and then we will return.

[Recess.]

Chairman **St Germain**. The subcommittee will come to order.

Mr. Cooper, I believe has additional questions he wished to ask at this time.

Mr. **Cooper**. Thank you, Mr. Chairman.

I was wondering if the FDIC could tell me. I understand you use a modified payout for this bank. You did not arrange a merger?

Mr. **Burgee**. No, sir; we used a technique we call a deposit transfer. Our statute provides that we may handle the payoff of insured depositors in a number of ways.

The most direct way is by preparing checks ourselves and delivering them to the insured depositors, or the same section provides that we may make the insured deposits available in another insured bank, and that was the circumstance here.

In this case Hong Kong and Shanghai Bank paid a $6.4 million premium for the privilege, if you will, of acquiring the deposit base represented by the $117 million in insured deposits.

Mr. **Cooper**. So, that is a different way of terminating a bank than the modified payout scheme that has been used experimentally in Tennessee.

Mr. **Burgee**. The modification portion of the modified P&A refers to those situations where we have been able to get a quick grasp on likely asset values and recoveries through the liquidation process, so that we can pay an early liquidating dividend to all uninsured creditors of the receivership estate. So a modified payoff is usually a transfer of the insured deposits, as we did in this case to another bank coupled with a very early liquidating dividend based on our evaluation of likely recovery.

Mr. **Cooper**. I take it there has been no switch in FDIC policies as to when you would use this deposit transfer, or the modified payout in future failures? You are still using the cost test?

Mr. **Burgee**. Well, in both circumstances it is the same basic technique. That is a payoff which is handled through the transfer of insured deposits. We would always, in those circumstances where we were able to get a good handle on asset values and likely recoveries, make an early liquidating dividend payment to all uninsured creditors of the receivership estate. So there really is no departure from that technique where it is appropriate, where we have to do a pay out.

Mr. **Lutz**. Congressman, we have got a discussion paper outstanding with that modified transfer, that modified payout technique. We have been seeking public comment on that for several months now.

Mr. **Cooper**. I would like to take a look at that. I will plan on doing that. My last point if you could correct a misimpression, I believe, contained on page 2, which looks like a slur against Chinese food.

You note as one of the hardships encountered at that time is that most meals consisted of takeout orders from neighborhood fast food establishments.

Mr. **Burgee**. Which in many cases may have been good old American burgers and french fries.

Mr. **Cooper**. McDonalds.

Thank you, Mr. Chairman.

Chairman **St Germain**. Mr. McKinney.

Mr. **McKinney**. Thank you, Mr. St Germain.

Mr. Burgee, I won't take too long. I should explain to you gentlemen, too, that the incompetency, and the rest of the issues that I have been alluding to, came before the FDIC back in 1981 and something should have been at that time.

It seems to me that we have one large problem, and that is the yellow certificates. It seems to me, Mr. Burgee, that you are requiring that depositors justify the bank's practices.

It is the bank's job to explain itself.

I have here a memo from the Federal Reserve Bank of New York with a legal opinion that, in fact, the yellow certificate is a deposit:

> In my opinion it is clear that these yellow certificates are time deposits and subject to reserve requirements.

Of course they are worried about the reserve requirements:

> The yellow certificates state that the named person has delivered funds to Golden Pacific and the principal amount with interest added a specified rate will be paid at maturity upon presentment of the certificate. They are labeled as nonnegotiable certificates. Regulation D defines deposit to include the unpaid balance of money * * *

> received * * * by a depository institution * * * which is evidenced by an instrument on which the depository institution are primarily liable.

In fact, let's go back to general FDIC regulations. When new banks open up in my district, they panic. They have got 30 employees. They don't have their FDIC insurance yet and they panic.

They call the Congressman, and say: "Do something, do something, do something, because nobody will bank at a bank that doesn't have FDIC insurance" at least in Connecticut.

If, in fact, depository instruments are going to be issued by a bank that advertises FDIC on the front windows, on the front door and all along the counters, shouldn't there be some basic minimum requirements as to the size of print notification, billboards, or something stating that some of our instruments are not insured by the Federal Deposit Insurance Corporation?

I mean I have has been on the Banking Committee for 15 years and when my wife sees the FDIC seal she thinks anything that that bank takes is going to be insured. She thinks she is safe.

Mr. Burgee. I think it is important to note, as I am sure you are aware, the FDIC by law is not the insurer of all of a bank's obligations. We make efforts through the publication of pamphlets entitled "Your Insured Deposit" to explain some of the essentials of the coverage of Federal deposit insurance.

I must say as a result, or subsequent to the failure of Golden Pacific National Bank we are in the process of having printed 50,000 copies of "Your Insured Deposits" in Chinese. It is also available in Spanish.

I gather the thrust of your questions——

Mr. McKinney. Probably not Chinese, however. But you have a regulatory process and a regulatory power over those banks you insure. Shouldn't we require that any certificate like this yellow paper have in large print across the top, "This is not an insured deposit"?

Mr. Burgee. Part 329 of our regulations does deal with liabilities other than deposits, and I believe it does require the bank to make that sort of——

Mr. McKinney. Mr. Meadows.

Mr. Meadows. Mr. Congressman, yes, I think part 329 does cover liabilities other than deposits, and there is a requirement for any obligation that is not a deposit. As I recall—I haven't read that particular section recently—there is a requirement that a notice be printed in boldfaced type that indicates that it is not a deposit, and not insured by the FDIC.

Mr. McKinney. In your opinion, did Golden Pacific live up to that requirement?

Mr. Meadows. In my opinion, no.

Mr. McKinney. You see, I am having a problem, gentlemen. I am not here to skewer the FDIC or anybody else, but I am getting darn tired of bankers whose honesty is a little more than questionable. We have got them all over.

We have got them in Boston brahmins and Chicago tycoons and Western S&Ls, and now we have got Chinese banks. I think that when somebody walks into an office that has your emblem on the window they should believe all their deposits are insured. We had a great deal of testimony during the Maryland collapse because the

Maryland nongovernmental insurance corporation uses the State of Maryland seal. People saw that State seal and they said, oh, boy, the State of Maryland is behind this.

Well, the State of Maryland got behind it because they had no druthers in the crunch. It just seems to me that you ought to tighten up your regulations so that in fact these certificates, noninsured certificates in an FDIC bank, be very clearly and prominently marked as noninsured.

Mr. BURGEE. I would just point out in the case of Golden Pacific that the chairman of the bank, other senior officials in the bank, including branch managers with whom we spoke, take the position that these were indeed not insured deposits, and their contention is that at least some customers were told this. Indeed, we have some of these certificates which bear that stamp albeit faint.

Mr. MCKINNEY. You see my problem, though, gentlemen. I am having a hard time, Mr. Chairman, bringing this back to where it should be. We should not be listening to a suspect bank or a suspect bank's employees, because I used to be a director of a bank, and I know banks. If something funny is going on up in the main office, everybody in the bank knows it. It is a very tight little community.

Chairman ST GERMAIN. Mr. McKinney, let me interrupt for a second. Somebody passed over to Mr. Burgee, to whom I wish to apologize. I am sorry. I should have remembered that you are Deputy General Counsel. I am sorry about that.

Mr. MCKINNEY. He wishes today he weren't.

Chairman ST GERMAIN. Now, did you pass a resolution?

Mr. BURGEE. This is a reference to part 329.

Chairman ST GERMAIN. It is a reference to——

Mr. BURGEE. Yes, sir.

Chairman ST GERMAIN. What does that regulation state? Can anyone here—do you have it? Great, could you find it for us, please?

Mr. MCKINNEY. Mr. Chairman, I would like while they are looking, to ask unanimous consent that this regulation be printed in the hearing.

Chairman ST GERMAIN. Once we find it.

Mr. LUTZ. Congressman, we try, where there are certain different types of instruments, to give guidance. I will give you a example. A few years ago retail repurchase agreements were in vogue, if you will recall, and we set out guidelines to banks, and as I recall, we had our lawyers, we had a task force that worked on it, and as I recall one of the specific items that was in there was a requirement for it to state very clearly the bank is not insured by FDIC.

The circumstances here certainly are not, what I would call an aberration but we hope that we don't come across very many banks that are doing the sorts of things that were going here. Where we see a practice, if it doesn't qualify as deposit, we do try to provide guidance, either through a regulation or through policy statements that that should be made known. I think we have made those kinds of efforts in the past.

Chairman ST GERMAIN. Have we found it? I think we may have found it. Could you read to us from the reg, quote the reg for us, please?

Mr. **Burgee**. Section 329.10 CFR entitled,

> Obligations other than deposits. Subpart (a) General. Except as provided in this section, the provisions of this Part 329 shall apply to obligations other than deposits that are issued or undertaken by insured nonmember banks for the purpose of obtaining funds to be used in the banking business.

It goes on to provide in (b)(3)(i) that—

> Such instruments bear on their face in bold-face type the following: "This obligation is not a deposit and is not insured by the Federal Deposit Insurance Corporation."

Chairman **St Germain**. Without objection, we will have that section of the regulation printed in the record at this point.

[Section 329.10 of the Code of Federal Regulations follows:]

code of federal regulations

Banks and Banking

12

PARTS 300 TO 499

Revised as of January 1, 1985

CONTAINING
A CODIFICATION OF DOCUMENTS
OF GENERAL APPLICABILITY
AND FUTURE EFFECT

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§ 329.10 Obligations other than deposits.

(a) *General.* Except as provided in this section, the provisions of this Part 329 shall apply to obligations other than deposits that are issued or undertaken by insured nonmember banks for the purpose of obtaining funds to be used in the banking business.[15] The term "obligations" includes but is not limited to: Promissory notes, acknowledgements of advance, due bills, repurchase agreements, international banking facility time deposits (IBF time deposits), or similar obligations (written or oral).[16]

(b) *Exceptions.* The provisions of this Part 329 shall not apply to any obligation other than a deposit obligation of an insured nonmember bank that:

(1) Is issued to (or undertaken with respect to), and held for the account of: (i) A bank,[17] (ii) any organization the time deposits of which are exempt from § 329.6 pursuant to the provisions of § 329.3(g), (iii) the United States or an agency thereof, or the Government Development Bank of Puerto Rico, or (iv) Minbanc Capital Corp. (where such obligation is subordinated to the claims of depositors to the extent of any deposits they may have in the issuing bank);

(2) Evidences an indebtedness arising from a transfer of direct obligations of, or obligations that are fully guaranteed as to principal and interest by, the United States or any agency thereof, that the bank is obligated to repurchase;

(3) (i) Bears on its face, in bold-face type, the following: This obligation is not a deposit and is not insured by the Federal Deposit Insurance Corporation;

(ii) Has a maturity of (A) at least seven years, or (B) in the case of an obligation or issue that provides for scheduled repayments of principal, has an average maturity[17b] of at least seven years and provides that once repayment of principal begins, all scheduled repayments shall be made at least annually and that the amount repaid in each year shall be no less than the amount repaid in the prior year; provided that the Federal Deposit Insurance Corporation may permit the issuance of an obligation or issue with a shorter maturity or average maturity, or an obligation or issue which otherwise fails to comply with the provisions of paragraph (b)(3)(ii) of this section, if the Federal Deposit Insurance Corporation has determined that exigent circumstances require the issuance of such obligation or issue; provided further that the provisions of paragraph (b)(3)(ii) of this section shall not apply to mandatory convertible debt obligations or issues;

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[15] The term "insured nonmember bank" includes insured nonmember mutual savings banks as defined in § 329.7(a).

[16] The provisions of this section shall not apply to any obligation of a bank which is payable only at an office of the bank located outside of the States of the United States and the District of Columbia.

[17] The term "bank" includes a member bank, a nonmember commercial bank, a savings bank (mutual or stock), a building or savings and loan association or cooperative bank, the Export-Import Bank of the United States, or a foreign bank, or a credit union. It also includes bank subsidiaries that engage in business in which their parents are authorized to engage and subsidiaries the stock of which is by statute explicitly eligible for purchase by national banks.

[17a] [Reserved]

[17b] The "average maturity" of an obligation or issue repayable in scheduled periodic payments shall be the time-weighted average of all such scheduled payments. In any serial note issue which is exempt from the provisions of paragraph (b)(3)(ii) by virtue of having an average maturity of 7 years or more, no note in that issue may be offered with a maturity of less than 5 years.

(iii) Is in an amount of at least $500, provided that the Federal Deposit Insurance Corporation may, at its option, permit the issuance of an obligation in a lesser amount where such lesser amount is necessary in order to either

(A) Satisfy the preemptive rights of shareholders in the case of a convertible debt obligation; or

(B) Maintain a ratable unit offering to holders of preemptive rights in the case of an obligation issued exclusively as part of a unit including shares of stock which are subject to such preemptive rights; or

(C) Satisfy shareholders' ratable claims in the case of an obligation issued wholly or partially in exchange for shares of voting stock or assets pursuant to a plan of merger, consolidation, reorganization, or other transaction where the issuer will acquire either a majority of such shares of voting stock or all or substantially all of the assets of the entity whose assets are being acquired.

(iv) States expressly that it is subordinated to the claims of depositors and is ineligible as collateral for a loan by the issuing bank; and

(v) Is unsecured.

(4) Arises from a borrowing by an insured nonmember bank from a dealer in securities, for one business day, of proceeds of a transfer of deposit credit in a Federal Reserve Bank (or other immediately available funds), commonly referred to as "Federal funds", received by such dealer on the date of the loan in connection with the clearance of securities transactions.

(5) Is issued by an insured nonmember mutual savings bank[16a] so long as the issue meets all of the following criteria:[16b]

(i) The obligation is in writing;

(ii) It is unsecured;

(iii) It has an original maturity of not more than nine months (or 270 days);

(iv) The amount of the obligation is at least $100,0000;[16c]

(v) It expressly states that it will not bear interest after maturity except where the issuer fails to pay the obligation at maturity (including accelerated maturity following default) in accordance with its terms;

(vi) It includes the following statement which must be presented in a clear and conspicuous manner: "This obligation is not a deposit and is not insured, in whole or in part, by the Federal Deposit Insurance Corporation";

(vii) It includes the following statement: "No fractional interest in this obligation, in contrast to the entire obligation, may be offered or sold to the public by the issuer or anyone authorized by the issuer to act on its behalf."[18d]

[16a] The term "mutual savings bank" is as defined in § 329.7(a) of this part.

[16b] While not necessary conditions precedent to securing or retaining the exemption afforded by subsection (b)(5) of this section, the following conditions apply to any insured nonmember mutual savings bank that is seeking the benefit of the exemption and FDIC reserves the right to curtail the bank's authority to issue additional exempt obligations if it does not adhere to these conditions: (1) The proceeds of all exempt obligations shall be used only for "current transactions". The term "current transactions" has the same meaning as in section 3(a)(3) of the Securities Act of 1933 (15 U.S.C. 77c(a)(3)) and interpretations of the Securities and Exchange Commission thereunder. (2) The issuing bank will not offer or sell, or authorize anyone else to offer or sell, any part of an exempt obligation (*i.e.*, a participation amounting to less than $100,000) to the public. (3) The issuing bank will not enter into any form of arrangement or understanding with prospective purchasers whereby the issuing bank undertakes to pay its exempt obligations before the original maturity stated therein (other than following an event of default so long as all such events of default are spelled out in the exempt obligation).

[16c] The face amount of the obligation may be as low as $100,000 even though it is to be sold at a discount. Upon partial payment, a certificate for the amount of the obligation still outstanding may be issued in substitution for the original obligation so long as the original maturity of the obligation is not extended.

[35 FR 18314, Dec. 2, 1970, as amended at 36 FR 3112, Feb. 18, 1971; 38 FR 16347, June 22, 1973; 41 FR 24978, June 22, 1976; 41 FR 30008, July 21, 1976; 43 FR 20223, May 11, 1978; 45 FR 8939, Feb. 11, 1980; 45 FR 13726, Mar. 3, 1980; 47 FR 32698, July 29, 1982; 47 FR 39473, Sept. 8, 1982; 48 FR 10, Jan. 3, 1983]

[18d] In the case of negotiable obligations, the issuer is not required to place a restrictive legend on the obligation so long as the issuer complies with the restriction and provides FDIC with satisfactory assurances that those acting for it or on its behalf will do so as well (see footnote 18b).

Chairman **St Germain**. Now, Mr. Burgee, the faint stamp in minuscule letters that was placed on the yellow certificate, do you think it would satisfy the requirement of that regulation?

Mr. **Burgee**. I do not.

Chairman **St Germain**. Certainly not, because it requires boldfaced print.

Mr. **Burgee**. That is correct.

Chairman **St Germain**. And not print on top of a print that was already there. Therefore, Mr. Chuang was not in compliance with that requirement, if indeed he was issuing certificates that he meant not to be federally insured.

Mr. **Burgee**. I would stipulate to that.

Chairman **St Germain**. Mr. McKinney.

Mr. **McKinney**. Thank you, Mr. Chairman.

This boldfaced print we aint' got, let's put it that way.

Mr. **Burgee**. Yes, sir.

Mr. **McKinney**. What I am trying to do, gentlemen, simply is this. Your predecessors several years ago, I have forgotten the exact year, asked the committee and the chairman to put the full faith of the U.S. Government behind the FSLIC and the FDIC. I must admit, financially, the FDIC has a hangnail and the FSLIC has terminal cancer. But the fact is that both have the full faith and credit of the U.S. Government and we are going to have hearings on both.

The S&L industry made use of this in television ads all across the United States of America. The average American sees that seal and he thinks that his money is safe, if in fact he has made an agreement with the bank, and that is what the people of Chinatown in New York believed.

Now, the Bank of Boston thought $1.2 billion was a slight oversight, so obviously there are people out to beat the system and there are people who are going to use this for laundering and there are people who are going to play games with it. But it is the bank's obligation to file the CTR. It is the bank's obligation to notify the customer on the instrument, it would seem. I hope you look at these regulations and tighten them up so it can't be eradicated, so the bank can't say he signed a piece of paper which is separate, the bank can't say we told them, because to me the obligation is on the bank, not on the consumer. After all, not all bankers are nice people.

Now, let's move on to the other point that I have a problem with, and I am sure the chairman's astuteness will come in to help me with this one too. There seems to be a question about these being deposits. Now, as I say, I was on the board of a bank. I resigned when I came to Congress because I thought it was a conflict of interest. I look at that darn piece of paper and I'd sign that thing, the banker would sign it, and to me that is a CD. As I used to say in this committee, Mr. Chairman, if it walks like a duck and it quacks like a duck and it swims like a duck, it has got to be a duck.

Chairman **St Germain**. You have said that so many times that I no longer eat roast duck.

Mr. **McKinney**. A lot of cholesterol, Mr. Chairman, unless you get good Chinese pressed duck with the fat gone.

Now, the Federal Reserve opinion that I have here dated July 3, 1985, says that these are certificates of deposit as far as the Reserve requirements are concerned, so shouldn't they in essence be certificates of deposit in an FDIC bank insured by the Federal Government, guaranteed by the full faith and credit of the United States, and in fact these poor people should just get paid?

I am just talking about general principle.

Mr. BURGEE. Frankly, we wish the determination were that easy. If it were, we would have dealt with these as promptly as we did with 98 percent of the other depositors of Golden Pacific National Bank. In point of fact the certificate, the yellow certificate does have as its final sentence the reference to another agreement, which the parties agree they will be bound by the terms of.

Mr. MCKINNEY. You see, that is why I said I wish you would tighten up your regs. You know it is easy for the banker to refer to "We told the customer. We swear we told the customer," or "The customer signed a piece of paper. We just can't find it." Have you found any of these agreements?

Mr. BURGEE. We have found one that was not executed by a customer. There are other factors that bear——

Chairman ST GERMAIN. That is one blank signed agreement.

Mr. BURGEE. It bore the signature of one bank official.

Chairman ST GERMAIN. Right, but no customers. But that is the extent of it?

Mr. BURGEE. That is the extent of what we can find.

Chairman ST GERMAIN. Right.

Mr. BURGEE. We have a subpoena outstanding that we have issued pursuant to our administrative subpoena powers for all other records which we believe may be in existence that are not located on the bank premises. The real legal issue is the intent of the parties, which in this case of course are the depositor and the bank. With all due respect to the Fed's opinion, they were relying strictly on documentary evidence.

As we see the law, we have got to look at other factors to determine what the intent was, and of course among those factors are what the intent of the bank was. We are confronted with the persistent statements of the chairman of the bank that these were not deposits.

The branch managers have indicated through interviews that in many cases customers who asked about it were specifically informed these were not deposits. They were not handled in many respects in the ordinary course of the bank's business. They were not treated, dealt with in the same way that the bank dealt with its blue certificates of deposit. All of these factors only serve to create doubts which we are endeavoring to resolve.

Chairman ST GERMAIN. But what you are talking about here is the intent of Mr. Chuang, and his branch managers. Correct?

Mr. BURGEE. Evidencing the bank's intent, yes.

Chairman ST GERMAIN. Not the intent or the understanding of the purchasers of the yellow certificates?

Mr. BURGEE. Without question, that is an extremely important factor.

Chairman ST GERMAIN. Right, and to date do you have any evidence to point or to bear out the fact that the intent of the purchasers of these certificates was anything other than to purchase an insured certificate of deposit?

Mr. **Burgee**. With respect to specific depositors by name, no. Again, we are looking at all the totality of the facts and circumstances as they existed with respect to the bank's practices. What we are told was the practice in terms of marketing these instruments. What we are told is the understanding of the parties based on the bank employees' version, recollection. Again, we are endeavoring to get all of the documentary evidence that we think would be germane to the determination.

Chairman **St Germain**. Do you think that the three ladies who testified here this morning are atypical of the purchasers of yellow certificates?

Mr. **Burgee**. I don't have sufficient information to judge whether they are atypical.

Chairman **St Germain**. Let's go to Mr. Whitney. That is a famous name. Mr. Whitney, you have been on the scene.

Mr. **Whitney**. Yes, I have.

Chairman **St Germain**. Have you been at PS–124 at any point in time?

Mr. **Whitney**. Yes, I have.

Chairman **St Germain**. Let me ask you, are these people atypical that testified here this morning and this afternoon?

Mr. **Whitney**. Not the individuals with whom I have spoken, no.

Chairman **St Germain**. Pretty much the same type, aren't they?

Mr. **Whitney**. That is correct.

Chairman **St Germain**. They are hard-working people who saved their money and bought these CD's to get what Mr. Burgee and I, Mr. Isaac and I, venture to say most all of you at that table would like, and that is to get a high rate of return, you obtain a CD of an institution that you think is a good institution. Right?

Mr. **Whitney**. I don't know if I can subscribe to all of those factors, Mr. Chairman, but——

Chairman **St Germain**. Is it erroneous to assume, to give them the benefit of the doubt, that they went in and bought these to get a decent rate of return on their savings?

Mr. **Whitney**. I honestly can't answer that, Mr. Chairman.

Chairman **St Germain**. If that is the case, then what other reason would they have gone in to purchase these yellow certificates?

Mr. **Whitney**. My understanding of the situation that our staff is confronted with is to resolve the apparent discrepancy between conflicting statements and documents.

Chairman **St Germain**. Mr. Whitney, you said you have been at PS–124?

Mr. **Whitney**. Yes, sir.

Chairman **St Germain**. Did you see any people there that were really sophisticated? I ask you, weren't most of them like the three witnesses that testified here this morning.

Mr. **Whitney**. My answer is that they are. I also need to point out, however, I was there for a brief period of time, and I probably saw at most 12 to 15 of the claimants who were present at that time, so it is a rather small sample.

Chairman **St Germain**. I'll bet that is pretty big compared to the alleged many who asked for the certificate on which they paid no taxes.

Mr. **Burgee**. Mr. Chairman, could I elucidate a bit on statistical data since we are talking about totality?

Chairman **St Germain**. Right.

Mr. **Burgee**. At the time of the bank's closing, the bank's files contained copies, they were pink bank copies, of 364 outstanding yellow certificates, 25 of which bore no name whatsoever in the payee blank. The aggregate amount of these was approximately $14.2 million. To date, however——

Chairman **St Germain**. 320 some-odd——

Mr. **Burgee**. I am sorry.

Chairman **St Germain**. 320 yellow certificates?

Mr. **Burgee**. 364.

Chairman **St Germain**. And the dollar amount on those 364?

Mr. **Burgee**. The aggregate was $14.2 million.

Chairman **St Germain**. Which means somewhere in the amount of what?

Mr. **Burgee**. There was a considerable number that were over the insurance limits in the approximate amount of $6 million, I believe, insured on those items. To date we have received claims from only 120 claimants holding separately 160 individual certificates.

Chairman **St Germain**. What would be the cash aggregate of those?

Mr. **Burgee**. The claims that we have received to date is $6.1 million, so it is difficult to talk in terms of what is typical in terms of the yellow, the holder of the yellow certificate. Our effort has been with respect to these different categories of customers who dealt with Golden Pacific to attempt to, wherever possible, come up with a global determination as to the insurability of their particular transaction.

Our feeling has been all along that if we are required, as indeed we might be, to go into a case-by-case determination of every one of the 120 claimants on the yellows and the others who had other types of transactions, that would be a far longer process. So we have been attempting, through our efforts to obtain as much documentary evidence as possible, to resolve again on a universal or global basis an approach for dealing with yellow certificates.

Mr. **McKinney**. Mr. Chairman, I want to get back to management, but before I do that I would say to Mr. Burgee that staff tells me—and we have been discussing this—that in 1935 Mr. Birdzell of the FDIC came before the Banking Committee and the Congress and was concerned that the definition of deposit for the FDIC was the same definition that was used by the Fed.

Mr. **Burgee**. If I might respond, I tried to make the point earlier—perhaps I got sidetracked—that the Fed has not had the benefit of—if you want to call it a benefit—of the information we have received from our interviews with former banking employees, which would go to the question of the intent of the parties.

Mr. **McKinney**. I asked Mr. Brown of Bank of Boston, "Mr. Brown, would you put your grandmother's last $10,000 into a bank that thought $1.2 billion was an oversight?"

Technically you are counsel and you are protecting the FDIC, but the fact of the matter is that people came in and made a deposit. If we take the 1 or 2 percent who were perhaps not doing quite the right thing, by trying to avoid a CTR, that is the bank's problem. The customer can't avoid the CTR. It is the banker that avoids the CTR.

If in fact the customer came in and he was trying to escape income taxes or reporting, that again is the bank's problem, because it is the bank's duty to report that information to the IRS. So no matter how you look at the thing, it is the bank, the bank, the bank, the bank, the bank, and I would just simply say I would put about as much weight on what either the bank's owners or the bank's employees say, as I would in listening to my 11-month-old grandchild telling me how to run the Chase Manhattan Bank.

Every single one of these instruments the bank deals with or what they do, Mr. Chairman, whether they avoid taxes, avoid CTR, anything else, was a conscious decision by the management of the bank to cheat, avoid, evade or circumvent banking law in the United States of America. If in fact any of these things were known by the customer, it was the bank that was giving them the golden yellow brick road. I would suggest, Mr. Chairman, that knowledge of any evasive tactics was in very limited amounts to the average depositor at the Golden Pacific Bank in New York City. What in fact you have was a bunch of sharpies figuring out where was some of this money going. We are now into insider deals again.

If I can give you a hypothetical——

Chairman **St Germain**. Stu, would you relax for a few minutes? You are getting——

Mr. **McKinney**. Mr. Chairman, I am getting very worked up.

Chairman **St Germain**. Relax for a few minutes because I want to chat with these gentlemen. I want you to relax, because I want to bring something out here.

I am informed that I will be told tomorrow that one of the main reasons for shutting down the bank—let's face it. The previous examination was in December 1984, so that was about 6 months before the fiasco. At that time the rating was pretty good. They got a 3; isn't that correct? They got a 3. It is not too shabby. If all the banks around the country had 3's, wouldn't we all be happy?

Mr. **Lutz**. Three is not necessarily a good rating, Mr. Chairman.

Chairman **St Germain**. But it is a whole lot better than a lot of them.

Mr. **Lutz**. It's better than a 4, but it's still a 3.

Chairman **St Germain**. Yes.

Mr. **Lutz**. A 3 designation indicates there are some problems.

Chairman **St Germain**. Right, but not all that bad. Go ahead, Mr. Meadows.

Mr. **Meadows**. I was just going to say, Mr. Chairman, I think a bank rated 3 is probably in the bottom 10 or 15 percent of the banks in the country.

Chairman **St Germain**. But this is a small bank that was being watched over very closely. Did they have a memorandum of understanding with them?

Mr. **Lutz**. At one point they did.

Chairman **St Germain**. How about in December 1984?

Mr. **Lutz**. I don't believe they did, sir.

Chairman **St Germain**. At that point, they no longer had it?

Mr. **Lutz**. I am not absolutely sure.

Chairman **St Germain**. The point is they saw no reason for shutting down the bank at that time. Between then and June, I guess there was another whistle blower who recited the same facts as were recited in 1981; is that not correct essentially? That is the information we have been able to obtain.

Mr. **Meadows**. Mr. Chairman, I think we should defer to the Comptroller of the Currency on that particular point.

Chairman **St Germain**. Does the FDIC determine whether they agree with the Comptroller that the bank should be closed, or do they just let it topple over and then go their own way? I thought you had a little more guts than that.

Mr. **Whitney**. I think the decision to close the bank was made by the Comptroller of the Currency.

Chairman **St Germain**. It was, right. However, there was an examiner from the FDIC present on the premises at that time; was there not?

Mr. **Lutz**. Participating in the examination, yes, sir.

Chairman **St Germain**. Correct. Now, is it not a fact that the straw that broke the camel's back was that the OCC man said, "I can no longer subscribe to the credibility of Mr. Chuang?" At least that is what we are going to be told tomorrow. The man was a liar. Isn't it a fact that he kept giving OCC all kinds of stories about where this $14 million or $15 million was invested. Furthermore, that it wasn't until Friday night, after the decision was made to close the bank, that he finally 'fessed up and said that these funds had been invested in the bank building itself, a building adjacent thereto, a hotel.

Mr. Chuang refused to tell, for along period of time didn't he? He finally did on Friday night. At least that is what I read in my files, and that was provided by staff, and that was in the newspapers as well, Mr. Martinelli.

Mr. **Martinelli**. Yes, sir.

Chairman **St Germain**. Am I erroneous in my understanding of the facts that Mr. Chuang, for a long period of time, refused to inform the OCC as to where the moneys were from the yellow certificates? Furthermore, that it wasn't until the last minute he finally divulged that they had been invested in a trust, trust which had been invested in the bank building?

Mr. **Martinelli**. I don't recall saying that to anyone, sir.

Chairman **St Germain**. No, I am asking you for your knowledge. Is that not the case?

Mr. **Martinelli**. Not to my knowledge.

Chairman **St Germain**. OK, well, gentlemen, that is the case.

Mr. **Burgee**. Our collective knowledge based on hearsay is that the OCC finally despaired of Dr. Chaung's claims that these assets in fact existed, and——

Chairman **St Germain**. Despair of his credibility, in other words?

Mr. **Burgee**. He may have provided some evidence, as to the existence of some assets. The evidence presumably was not satisfactory to the Comptroller.

Chairman **St Germain**. He said that the funds were invested in the bank building, type A condos, and that there was no way of showing title. Am I a little more accurate now?

Mr. **Burgee**. That is a little closer to the version.

Chairman **St Germain**. The OCC through its own hands, right? They don't rely on the statements of Mr. Chuang? Is that not correct?

Mr. **Burgee**. I am not sure what their motivation precisely was, or their view of the situation.

Chairman **St Germain**. Mr. McAvoy from FDIC, was he the examiner?

Mr. **Lutz**. Yes.

Chairman **St Germain**. Have you talked with him, Mr. Lutz?

Mr. **Lutz**. Yes.

Chairman **St Germain**. Did you discuss this phase, that is, the credibility or lack of credibility?

Mr. **Lutz**. We didn't get into the credibility issue with respect to Mr. Chuang.

Chairman **St Germain**. Put it this way, then, let's hypothesize or assume for the record that tomorrow we will be told by OCC that that was the case, they just despaired of this man's credibility. They couldn't believe him.

All right, are we going to believe him, and his branch managers, when they say that the people's motivation for buying these yellow certificates was to launder money or to evade taxes, or do we believe the type of people that we heard from here today?

Mr. Burgee, what would you say?

Mr. **Burgee**. I would say the credibility of any witness or the motivation for truthfulness would certainly be a factor on both sides. One could say, however, that a depositor who is seeking the benefits of deposit insurance would be well-motivated to have a selective memory about certain facts.

Chairman **St Germain**. Now, can we go to Public School 124 for a second? You didn't think we were going to forget that?

Mr. **Burgee**. I didn't think you left the drawing up for art's sake.

Chairman **St Germain**. You are right. Do you know who the FDIC individuals were who were there on—what was the date that our nurse friend——

Mr. **Martinelli**. The following Friday, the week after the bank closed, we opened the claims area.

Chairman **St Germain**. Right, and I think she was there the first day. She is very much on the que vive.

Mr. **Martinelli**. Right.

Chairman **St Germain**. Is anyone here who was there at that time?

Mr. **Martinelli**. I believe there is one person.

Chairman **St Germain**. Mr. Whitney?

Mr. **Martinelli**. No, I believe Mr. Whitney was there for a while, but Mr. Wexler was there for almost the whole time, and——

Chairman **St Germain**. Is Mr. Wexler here?

Mr. **Martinelli**. Yes, he is.

Chairman **St Germain**. Wonderful. Raise your right hand.

[Witness sworn.]

You heard a description by Ms. Hsue of her experience at P.S. 124, wherein she was first taken to that long table, and she was asked about everything but her blood type.

Is that an inaccurate description by Ms. Hsue of the requirements?

Mr. **Wexler**. I would have to take issue as to her characterization.

Chairman **St Germain**. How about you telling me what the people at the first table were asking for?

Mr. **Wexler**. At the first table, we had two of our senior claims people that were flown in from Oklahoma and at the claims center, we were taking not only yellow certificate claims, but any claims that were not transferred to the assuming institution, so you had people coming in with excess deposit claims, the IBFs, and the golden certificates as well.

The people at the first table were to find out what it was that the people were there for, and due to the high emotions that were running in the community at the time, they spent a great deal of their time trying to calm down the people and make them understand that we were not there to arrest them.

A lot of people came in, and they really were very worried about what was going to happen when they came. We had three translators.

Chairman **St Germain**. Why would they think that they might be arrested?

Mr. **Wexler**. My understanding is that some of the Chinese newspapers were printing all types of things, such as that the immigration people were going to be there. There were people that came around the corner, and they wanted to peek in and make sure they were not going to be arrested before they would come in to file a claim.

The first day, it was actually very slow. There were only a few people that came in. We had three tables, not two, just to correct the diagram. Once those people settled down a little bit——

Chairman **St Germain**. There were three tables as you entered?

Mr. **Wexler**. No; there were three up at the top. The one table as you entered.

Chairman **St Germain**. I would ask our artist, but he is very weary.

Mr. **Wexler**. There was a sign we had translated into Chinese that basically told the people what it was we were doing, and listed a number of different forms of identification, and in order to process a claim since we had no records of the bank, and especially with the yellow certificates they were off book, and at that time, we couldn't even locate any signature cards on them.

We needed some form of identification that the person was who they said they were. We listed in order of things, including driver's license, social security number, passport. We ended up taking things like——

Chairman **St Germain**. Citizenship papers?

Mr. **Wexler**. If that is what they had. We took telephone bills, anything they had.

Chairman **St Germain**. This was in order to identify the individual.

Mr. **Wexler**. Correct.

Chairman **St Germain**. OK.

Is that all that was done at that table?

Mr. **Wexler**. At that table, there were three people. The third person would get the information together to create a file folder, and then once they determined, let's say, this person had a yellow certificate, they would then direct them to the table where the actual claims people were there to help them fill out the proof of claim and take the information down so that they can file the proof of claim relating to their certificate.

Chairman **St Germain**. So now, they finish the first table, and they are brought to the FDIC claims area, at the other end of the auditorium; correct?

Mr. **Wexler**. Correct.

Chairman **St Germain**. Ms. Hsue was a yellow certificate holder, so what was she asked?

Mr. **Wexler**. For the first week when we were at P.S. 124, not knowing what type of crowds we would have, we were trying to be prepared for big crowds. We were trying to process the people through; and if you took a look at the proof of claim which you have a copy of, that was provided to Mr. Galloway, they were simply asked to help us fill out and explain that it had to be notarized.

Chairman **St Germain**. Is that the proof of claim there? This says "personally appeared before me the undersigned, being duly sworn."

Mr. **Wexler**. OK, we didn't have a notary public at the claims office, so we would help them fill in the particulars, and then explain to them that they needed to go to a notary public and have it notarized and return it.

Chairman **St Germain**. Now, you were here earlier today. I think I have noticed your pleasant countenance with us throughout the day. You heard about the two claims people speaking with Ms. Hsue. These decibels started going, and then the third claims person came over to add to them.

Were you there at the time?

Mr. **Wexler**. I was there almost continuously for the whole week. I was not there for a few hours on Saturday and on Monday; but from her description, it could not have been the first day on Friday, because business was slow on Friday, and Saturday it picked up a little bit.

And it wasn't until some people went through the process and got the word out in the community, that the traffic picked up, and it was Monday, Tuesday, Wednesday of the following week that we had a line of 10 or 15 people waiting outside.

Chairman **St Germain**. All right.

Ms. Hsue, what is it that the FDIC claims people said to you?

Ms. **Hsue**. They insist I was knowing that wasn't insured.

Chairman **St Germain**. They told her that she knew that the yellow certificate was not insured. Is there any way to check out this situation?

Mr. **Wexler**. I can tell you from my personal experience having spent the majority of time there, that those questions were never asked in that first week.

We were not asking any questions relative——

Chairman **St Germain**. She didn't say it was a question, Mr. Wexler. She said she was told by them that she knew. They told her that she knew it was not an insured certificate.

Mr. **Wexler**. I know the individual claims officer who was at that table, and I witnessed her process many claims, and she never made any such statements in my presence.

Chairman **St Germain**. In your presence. But you don't know that she couldn't have made it to Ms. Hsue?

Mr. **Wexler**. I would find it highly unlikely that she made such a statement.

Chairman **St Germain**. Ms. Hsue said she was then directed out the door where the FBI people were. That was the only exit, correct?

Mr. **Wexler**. When the people first came in one of the jobs of the first claims agent was to tell them that there were FBI agents outside and that they were investigating possible bank fraud by the bank officers, and that they were interested in statements that the bank officials might have made to them at the time that they bought these yellow certificates.

We told them that we had nothing to do with the FBI, that we were not requiring them to go to talk to the FBI, but that it might well be helpful.

Chairman **St Germain**. You are under oath, and Ms. Hsue was under oath, so somebody is going to have to answer to perjury here. Isn't that a fact?

Mr. **Wexler**. I guess that is correct, sir.

Chairman **St Germain**. Yes, sir. I think Mr. Burgee, that we are going to ask that the claims examiner that spoke with Ms. Hsue be brought in here. Don't you think that we have to at this point, in view of the conflicting statements?

You see, it is important, Mr. Burgee. When is the last time the FBI was outside the door, from the FDIC claims desk?

Mr. **Wexler**. Almost 3 weeks.

Chairman **St Germain**. Pardon?

Mr. **Wexler**. With this specific bank?

Chairman **St Germain**. No, no. Do you always have the FBI outside the door?

Mr. **Burgee**. Always, no, sir.

Chairman **St Germain**. It is unusual?

Mr. **Burgee**. In my experience, it is unusual. I am trying to recall if that was the circumstance at Penn Square, I don't recall. I believe at a recent payoff in Chicago, agents of the Federal Bureau were outside.

Mr. **Barnard**. Would you yield? Inasmuch as there was a referral of the Golden Pacific to the Justice Department several years previous, wouldn't it be purposeful that the FBI would be there under this situation, I mean on their own initiative?

Chairman **St Germain**. Doug, the OCC and Justice wrote that thing off in 1984.

Mr. **Wexler**. If I may state that we did not call in the FBI. We were called by the U.S. Attorney's Office on the Tuesday after the bank closed, and as a Federal agency, we agreed to cooperate with them.

Chairman **St Germain**. Ms. Hsue said that the claims area representative of the FDIC said, "Go to the FBI and they will help you with your claim. Did you look at the FBI questionnaire, sir?

Mr. **Wexler**. Yes, I did.

Chairman **St Germain**. What was that designed to do?

Mr. **Wexler**. My understanding from the FBI officials, as they explained it to me, is they were trying to find out what representations the bank made in order to determine whether there was any fraud on the part of the bank.

Chairman **St Germain**. Did you look at the questionnaire?

Mr. **Wexler**. Yes, sir, not at the time. I saw it after the fact.

Chairman **St Germain**. When did you see it?

Mr. **Wexler**. Must have been about 3 weeks after the bank closed.

Chairman **St Germain**. Three weeks after the claims were being processed?

Mr. **Wexler**. Two weeks after the claims were being processed.

Chairman **St Germain**. You were not curious to look at it prior to that?

Mr. **Wexler**. I was totally consumed in just trying to work with my people.

Chairman **St Germain**. A couple of weeks later, you looked at it. What was your reaction to these questions? Were they to get information about the bank officers, or to get information about the claimant?

Mr. **Wexler**. My understanding is that there are a few questions that the community found highly objectionable and the FBI stopped asking those particular questions.

Chairman **St Germain**. I will tell you. Did you purchase an investment certificate, and if so, did somebody answer yes to that, sign it, and then give it to the FDIC?

Could you say you didn't purchase a CD, an investment certificate?

Mr. **Burgee**. We would posit further questions to make sure there was a full understanding of the difference.

Chairman **St Germain**. I would hope so.

[A copy of the FBI questionnaire referred to follows:]

[illegible] with the Federal Bureau of Investigation (FBI) regarding an investment certificate, also known as a "yellow certificate", I am voluntarily furnishing the following information:

1. Customer Name____________________

2. Other names used____________________

____

3. Address____________________

4. Home telephone Number____________________

5. Business address____________________

6. Business telephone number____________________

7. Citizen yes no

8. Immigration number____________________

9. Passport number____________________

10. Do you speak English?____________________

11. Did you purchase an investment certificate from the Golden Pacific National Bank? yes no

12. From whom did you purchase the certificate?

____

13. Date purchased?____________________

14. Were you told that no tax forms would be filed? yes no

15. Were you told that no currency transaction reports would be filed? yes no

16. Did you pay a fee or kick back to any bank official? yes no

17. Do you have a copy of the certificate(s)? yes no

18. Certificate number(s)____________________

19. Dollar amount(s)____________________

20. Maturity of certificate____________________

21. Did you sign a trust agreement yes no

22. How did you pay for the certificate?____________________

Mr. **Martinelli.** Mr. Chairman, may I inject something on this? Subsequent to Ms. Hsue going to the claims center, she came into my office and I had a meeting with her, plus other members of the Asian-Americans for Equality, and at that time, while she exhibited much concern and upset along those lines, she did not say that FDIC people were surly or nasty to her.

Quite the contrary, she was very upset and basically looking for her money, and she wanted to know when she would get her money, and so on and, if I would have known what——

Chairman **St Germain.** You just answered your own question. You said she didn't say that the FDIC was surly to her.

Mr. **Martinelli.** That is right.

Chairman **St Germain.** Because all she was doing was looking for her money. Obviously, she was told, you are a big cheese, a big chief in this instance, in this FDIC line of hierarchy. So if I were she, I would have done the same thing.

I would say to myself, maybe if I am a nice girl, they will give me my money.

Mr. **Martinelli.** Mr. Wexler is on the carpet for credibility, and I am trying to clear it up.

Chairman **St Germain.** Sir, Mr. Wexler is not on the carpet for credibility, because he wasn't there at the time. I said we are going to have to get people in who were there at the time to determine whether indeed it was suggested to Ms. Hsue and to others, that they go and speak with the FBI agents.

Isn't that what I said?

Mr. **Martinelli.** Yes, OK.

Mr. **Burgee.** Putting all the facts in a light most favorable to all parties concerned, it was obvious this morning that the witnesses and indeed all the customers affected by the closing were extremely upset, and the emotional reactions continue to run at a very high pitch.

It is safe to say that recollections of specific words that were spoken, particularly given the language differences, are going to be fuzzy with the passage of this much time.

Our people were briefed to instruct the folks who came into the claims office to present legitimate claims for the benefits of deposit insurance, that their discussion with the FBI agents who were present was to be purely a voluntary act on their part.

They were also told, I am sure in some cases, which is quite true, that the ability of the FDIC, or the FBI, to get to the bottom of the apparent fraud that had been perpetuated would be extremely helpful in our ongoing liquidation process. One thing that has been a bit overlooked thus far.

Once all the questions of deposit insurance are resolved, FDIC as receiver of the bank is facing a long-term presence in the community, as it liquidates the assets of the bank. We are embarking on imposing constructive trusts on all these properties which were acquired through funds that came in through the bank.

Our objective is to maximize recoveries of those assets so all creditors of the bank, insured and uninsured alike, can receive the highest payout over time. So our objective has been to strike the most reasonable relationship we can with the community, with the recognition that in the long run, that is going to be to our mutual advantage as we try to discover assets and ferret out the fraud where it may have occurred.

Chairman **St Germain**. Well, Mr. Burgee, recognizing everything you have said, the reason that we felt fortunate to happen upon this instance of that the person involved communicates quite well in English.

I thought she communicated quite well this morning.

Mr. **Burgee**. I would share that reaction, although I noted at certain times she needed the assistance of some friends and colleagues.

Chairman **St Germain**. That is because she got a little nervous which is understandable.

Mr. **Burgee**. Certainly.

Chairman **St Germain**. A lot of FDIC personnel sit at that table and get nervous.

Mr. **Burgee**. I wouldn't suggest that our claims agent who had been working around the clock since Friday did not get tired.

Chairman **St Germain**. I am trying to put this into perspective, because I still feel it is unusual to have FBI personnel right outside the room. I don't think that happens frequently.

Mr. **Burgee**. I agree. We asked if they could not conduct their business at another location. They advised us that, given the presence at the claims office of so many customers of the bank who might have relevant information to what we perceived was a legitimate law enforcement function that it would be a great convenience to them and frustrate their investigation if they were to have to try to solicit this universe of people at another location.

Mr. **Martinelli**. We also asked the FBI to make a press release or news release to help calm the people down, to explain what their presence was there, but they would not do it. They said it might jeopardize their investigation, something along those lines.

Chairman **St Germain**. That is a hangup that the Justice and the FBI has, that everything is going to jeopardize their investigation.

Mr. **Martinelli**. I would like to explain, the women who would escort the person from the stage to the FBI area. We didn't want the people, the claimers, to feel intimidated, that they would have to walk by the FBI area, so the person was told, "You do not have to talk to the FBI if you don't want to," and then they would be escorted.

If they said yes, they would talk to the FBI, the reason the person was there was to take them to the FBI, introduce them to the FBI person, but if the person did not want to speak to the FBI, our person would escort the claimant past the FBI so the person would not be intimidated by the FBI.

Chairman **St Germain**. Are you telling me John or Jane Doe could finish up in the FDIC area, go past the FBI, and go out the door, and that the FBI agent would not get up and say, "Could we speak with you first?"

Mr. **Wexler**. I can tell you that several people did walk by the FBI and our claims people would tell them no, they don't want to talk to you, and they would walk out. We tried to have a flow so that it was orderly and the people exited from that side, but on one occasion, somebody really insisted, and we let them walk out through the entrance door.

Chairman **St Germain**. We are going to have the FBI in, at least we are going to try darned hard to have those agents come in, and that should help out a little bit.

Mr. Barnard.

Mr. **Barnard**. Mr. Burgee, how long did you know that the—did FDIC know there were problems at the Golden Pacific National Bank?

Mr. **Burgee**. Our regional office in New York received a call in mid-May from the OCC, which call related to us information in very general terms that they had received from an informant regarding certain practices at the bank.

I would defer to Mr. Lutz, the regional director in New York.

Mr. **Barnard**. Mr. Lutz, did your office benefit from the bank examinations from the Golden Pacific Bank, did you get copies of the FBI?

Mr. **Lutz**. Yes, sir, we do.

Mr. **Barnard**. Were you mindful before this call, there were some problems with the Golden Pacific?

Mr. **Lutz**. We were aware it was a three-rated bank, and there were some managerial problems, and previously there had been a memorandum of understanding, and we did not, at the time in mid-May, have any idea that the problems that we subsequently found were of the degree that they were, but we knew that there were some problems, yes.

Mr. **Barnard**. Were you mindful of the referral the OCC made to the Justice Department back as far as 1981?

Mr. **Lutz**. I was not personally aware of that.

Mr. **Barnard**. Did the FDIC have any record of that at the Washington office?

Mr. **Lutz**. I don't think so, I don't believe we had record of that referral.

Mr. **Barnard**. The FDIC did not have any knowledge of that referral?

Mr. **Lutz**. I believe that is correct, sir.

Mr. **Barnard**. That is one recommendation I would make, Mr. Chairman. When there is a referral by any of the regulatory agencies, be it the Federal Reserve, or the Comptroller of the Currency, that the FDIC should at least be notified of that referral.

Chairman **St Germain**. The Fed was aware of that referral.

Mr. **Barnard**. OK, but I will just tell you where I am trying to go. You did not have more than, say, 35 or 40 or 50 days' notice that there was going to be severe problems at the Golden Pacific.

Mr. **Lutz**. I would say, sir, that we didn't have more than a few days' notice that the problems were as severe as they turned out to be.

I think it began to take shape. In fact, I personally became exceedingly concerned only the day before the bank actually failed. That is when things really started to become apparent.

Mr. **Barnard**. Did the OCC ever acquaint you all with a problem that yellow certificates were being issued, and were investment certificates. Did they ever relate to you all the character of these yellow certificates?

Mr. **Lutz**. Only during the last week that the bank existed.

Mr. **Barnard**. What did they actually tell you in that regard?

Mr. **Lutz**. We went through a discussion of what was transpiring. There appeared to be off balance sheet activities going on at the institution, their assets were being funded by those off balance sheet activities.

We talked about what might have to be done.

Mr. **Barnard**. How long did you know, I mean, how long has the OCC known about these yellow certificates?

Mr. **Lutz**. I can't speak for that. They were made aware, they found out through basically some allegations that were made that there some off balance sheet activities that were taking place in the institution.

Now, at that point, we were advised of that fact, by telephone, in mid-May that they were going to go in on an examination and try to ferret out the facts, so we were put on notice, and an examination was scheduled.

They tried to get additional powers to insure that the examination would be a fruitful one, subpoena powers. I don't know the particulars or the background of why they were not able to get the kind of powers they wanted to get, sir.

But as I understand it, that delayed the commencement of the examination for probably a couple of weeks. We finally went in on June 17, so our office was aware that there was an allegation made, but we were not aware, at least I was not aware, and I believe my staff was not aware of the specifics of what had been said until the week of June 17.

Mr. **Barnard**. Because of this advance notice that you had of the circumstances of the yellow certificate and the off balance funding, that that help you prepare for the liquidation?

Were you set up just to—were you aware of these yellow certificates?

Mr. **Lutz**. We had no idea, sir, up until basically Friday, that that institution was going to fail, so that knowledge did not necessarily facilitate the liquidation process, because it was very late.

Chairman **St Germain**. Mr. Lutz, you were notified on May 15 or May 16 of this situation because that was the date on which an informant from within the bank went to the OCC office. The informant told them of the yellow certificate activities that were not being carried on the books. Is that not a fact?

Mr. **Lutz**. That is correct.

Chairman **St Germain**. You knew, as the OCC did on approximately May 15 or 16, about these off the book activities?

Mr. **Lutz**. The possibility of that, yes, sir.

Mr. **Barnard**. This is the reason I am asking you, was that why you set up this particular system of interrogating depositors, because of the yellow certificate?

Mr. **Lutz**. From my point of view, I would defer to my liquidation colleagues. One thing doesn't have anything to do with the other.

Mr. **Burgee**. I believe it is fair to day, again, we had three or four examiners participate in that surprise exam, just one, excuse me, on the week of June 17.

And it wasn't until that time, we understand the OCC did have this information from the informant as to the existence of offbook activity, but until the examiners got in there--and the reason for the delay from May 16 until June 17, OCC was attempting to obtain search warrant and grand jury subpoenas to aid their investigations—so it wasn't until they got on the site and discovered literally in a box, as we understand the facts, reams of bank copies of yellow certificates.

There was nothing on the records of the bank that would have been apparent to any examiner at any earlier time as to the existence of these things. We had no knowledge of the volume of offbook activity from the informant's tip.

Mr. **Barnard**. Your claims process, was it set up to accommodate the yellow certificate?

Mr. **Martinelli**. No, sir, we were taking all claims at that office. That is why we had the three tables up on the top, that we were taking——

Mr. **Barnard**. But you have a special table for the yellow certificate?

Mr. **Martinelli**. Right.

Mr. **Barnard**. You were prepared for that?

Mr. **Martinelli**. That was after the closing, a week after the closing.

Mr. **Barnard**. That is what we are talking about.

I just want to be sure, what I am trying to say, that you knew about the yellow certificates before you started the claims process?

Mr. **Burgee**. The existence of the yellow——

Mr. **Martinelli**. The bank closing on June 21 and the claims area was set up on June 28.

Mr. **Barnard**. So, therefore, this particular process was different than you would normally run at any other bank that you were liquidating?

Mr. **Martinelli**. If there was a claims process. If it was a payoff or a deposit transfer, we would have a claims area; and in a purchase and assumption agreement, we would not.

This was a deposit transfer. There was a claims area set up.

Mr. **Barnard**. You were handling this one particular transaction separately?

Mr. **Martinelli**. We were also handling the OPO separately and trade creditors separately. The only reason we had them split up is to expedite the people going through the line, if there was a line.

We were anticipating a lot of people coming in, and that is why we had it set up that way, so that there wouldn't be a back up.

Mr. **Barnard**. Earlier, I asked the witness, could she explain to me the conditions as she noted them, and I would like the gentleman on the end, Mr. Wexler, or whoever else was there, I would like to benefit from your impression of what the conditions were these days, and I mean by that, was it a large number of people, were there a large number of people on the outside, because I am impressed with the testimony that some of you actually laid down in this doorway so they couldn't run over you.

What was your interpretation of the conditions at the time that these witnesses were coming through?

Mr. **Wexler**. The remark about laying in the doorway was relating to the bank itself. I believe, the Monday after, June 24. When we opened up Friday in the afternoon, there was not really any crowd at all. There were maybe a half a dozen people that came to the office.

On Saturday, it started to pick up a little bit but it was Monday, Tuesday and Wednesday of the following week, that we began to have lines. We had about 10 chairs that were set up, and at certain times that wasn't enough, and there were a half a dozen people in addition to that waiting outside.

Mr. **Barnard**. The crowds were not sufficient to warrant the FDIC employees to become irritable and discontent with the traffic then?

Mr. **Martinelli**. Sir, for an employee to become irritable——

Mr. **Barnard**. Were you there?

Mr. **Martinelli**. One day, but not all the period of time. I would like to respond to an irritable employee. We had employees there, and many of them hadn't had a day off in 14, 15 days. Many of them had been working 17, 18 hours a day, so if an employee was irritable, they were the same employees.

They were employees that were there from June 21, and some people there prior to that in other closings. One man hadn't a day off in 37 days, and people working 17, 18 hours a day.

I want the panel to understand that and to see that particular problem.

Chairman **St Germain**. What were the hours that the claims office was open?

Mr. **Martinelli**. The same hours as the bank, I believe. Friday night, we opened at 3, til 6 in the evening. Saturday, it was opened from 10 to 3, I believe, and then on Monday, it conducted business the same as the banking hours.

Chairman **St Germain**. Did you then take them back to the bank and put them to work in it?

Mr. **Martinelli**. Absolutely. They didn't go home. After the claims office was closed, they did whatever work they had to do, and pitch in.

Chairman **St Germain**. I thought the Bank of Hong Kong had taken over by then?

Mr. **Burgee**. The bank closed on June 21, whereupon we and our staff had to get into the bank itself at that time, and that is when the long hours really commenced.

Chairman **St Germain**. Hong Kong-Shanghai took over. Didn't they bring their own people in?

Mr. **Burgee**. Into the bank itself the following Friday, a week later, but in that intervening period, our people were working around the clock with the bank's automation systems going through records, so forth.

Because we wished to avoid the mixture of depositors whose accounts had been assumed by Hong Kong-Shanghai at the bank's site from those who had claims to submit to us, we set up this office at P.S. 124, approximately 12 blocks from the bank site itself, so in the testimony——

Chairman **St Germain**. Mr. Burgee, once the Bank of Hong Kong purchased it, didn't they assume control a week later, on the 28th?

Mr. **Burgee**. They opened a week later, yes, sir.

Chairman **St Germain**. Their personnel are now in there?

Mr. **Burgee**. Dealing with only those accounts they took over.

Chairman **St Germain**. Because they were below $100,000.

Mr. **Burgee**. Clearly insured, 19,000 accounts.

Chairman **St Germain**. Are you telling us that the FDIC people are now still in that bank working around the clock?

Mr. **Martinelli**. Absolutely. We have about 50 of our employees still in the bank, because the assets that were not taken by Hong Kong-Shanghai are still there at the bank, and we have to service them.

We have to do everything we have to to continue.

Chairman **St Germain**. They work how many hours a day?

Mr. **Martinelli**. From June 21 until maybe a week ago, we had people working anywhere from a minimum of 10, 12 hours, and most working between 12 and 18 hours a day from the closing of June 21 until maybe a week or two ago, they were putting in those types of hours.

Chairman **St Germain**. That is really necessary?

Mr. **Martinelli**. Absolutely. It would be nice if we had 400, 500 employees to work 8-hour shifts, but we don't have that luxury.

That weekend, there were so many closings, so our people worked around the clock. We had people working in a computer area. One man worked 30 hours straight, another 27, 28 hours straight.

It is unbelieveable. People would have to see what happens at a closing behind the scenes, and the number of our people that are needed to get a failed bank up and running, to prove the assets, try and find where things are. A lot of people in my office haven't had a day off in a month. One gentleman hasn't had a day off in 37 days.

Chairman **St Germain**. Mr. Barnard is very familiar with that, but I don't think he ever worked in a bank that closed. Have you?

Mr. **Barnard**. Yes, two or three of them.

I have grasped the idea, and I am sure the panel has, that some of the customers of this bank were misled, that they didn't understand what they were investing in, and were—what?—defrauded. In the collection of your notes now, and this is a Chinese community, and a lot of the folks cannot speak the language, and a lot of them maybe not even understand the American banking system.

Are you having any difficulty in collecting the notes from the standpoint that the customers do not understand what they have done?

Mr. **Martinelli**. I am not sure I follow your point. By "notes" do you mean are they loan notes?

Mr. **Barnard**. Absolutely. I will explain it to you.

A note is what you sign, you borrow money from the bank, a consumer, real estate, automobile note.

In collecting those notes, do you find that there is any misunderstanding about what they have done?

Mr. **Martinelli**. We have not found any evidence of that, where noteholders or people have signed notes, received loans in a bank, didn't know what they were doing.

Mr. **Barnard**. Have you encountered customers who borrowed money that could not speak English?

Mr. **Martinelli**. I am sure we have. We have not talked to that many customers at this point. We are going through the records, doing what we can to start our collection procedures and go through the collection procedures with the assets.

Mr. **Barnard**. $64,000 question is, is any consideration at all by the FDIC to honor these claims of the customers with yellow certificates?

Mr. **Burgee**. Oh, I think it should be, it is worth saying again, we have not made any final determination that these will not be——

Mr. **Barnard**. Mr. Chairman, did you hear this?

Has the FDIC made any determination as to whether they were going to honor the deposits represented by the yellow certificates?

Mr. **Burgee**. No, sir. No final determination one way or the other has been made, and we recognize the delay in making that determination——

Mr. **Barnard**. How much is outstanding in these yellow certificates?

Mr. **Burgee**. We have received claims from 120 different claimants who held yellow certificates, whose claims aggregate $6.1 million.

The bank records, to the extent we can find them, 12 claims came in yesterday, I believe, from holders for whom the bank had no record of issuing a yellow certificate, but the total aggregate dollar amount of the outstanding yellow certificates that we know about is $14.2 million.

Mr. **Barnard**. No record in the bank to support as duplicates, no way to trace those to the books?

Mr. **Burgee**. What existed in the banks' files were 364 bank copies of yellow certificates. Actually, it was in excess of 600, I believe, and it took us several days for the examiners to go through and attempt to pull out those which had been redeemed. But these files were maintained in a box, as I understand it.

Mr. **Barnard**. Have you tried to organize those into maturity dates, whereby you would know some ballpark figure as to what was outstanding?

Mr. **Burgee**. We have completed that process and the total outstanding, according to the records existing in the bank, is $14.2 million. It looks like the average maturity was either 3 or 6 months.

Indeed, in some cases, not that it is relevant to the determination of insurability, the yellow certificates would not yet have matured by their own weight.

Mr. **Barnard**. The holders of yellow certificates, is it their impression they cannot get their own money?

Mr. **Burgee**. We have attempted through three meetings, one town meeting, to stress that point, that we have not made a determination that they will not be subject to the benefits of deposit insurance.

Mr. **Barnard**. Would you say some of the witnesses this morning overreacted to the situation?

Mr. **Burgee**. I wouldn't use the word "overreacted". There is a lot of continuing confusion and that is one reason we are so grateful to Congressman Green as he has been very helpful in facilitating our efforts to communicate our position to the community.

There has been some apparent intentional distortion of the facts in certain publications—in the Chinese papers, which has contributed to the confusion that a lot of the customers presently have and our effort is to try to neutralize that by putting out our true position.

Mr. **Barnard**. Mr. Chairman, one more question.

Why is it that the FDIC changed the decision to liquidate the bank at one time, and then changed and determined to then let the Hong Kong-Shanghai banker back?

Mr. **Burgee**. I will try to answer that.

When the bank was closed by the Comptroller, given what we knew about the volume of offbook transactions, and the great unknown contingent liabilities, coupled with the fact we didn't know exactly what the bank assets consisted of, we could not meet our statutory cost test to do a purchase and assumption transaction.

Once you make that determination, then our only option is to pay off the bank. We have various ways of handling a payoff. Our initial thought was to use our most direct technique, just have our claims agents reconcile the accounts, prepare checks, and deliver them to the customers.

However, we made very rapid progress through the efforts of our people and early in the week following the closing, we were able to determine with some degree of comfort the exact nature of the deposit, deposit liabilities, and we felt we could pursue the other option of paying off the bank, that is, to get another bank handle the payment of insured deposits as our agent.

So there was really no change in approach in dealing with it but rather just a sort of variation on the payoff theme as a result of our ability to get the records squared away to the point we could put it up for bid for an insured deposit transfer.

As noted in the statement, we were able to get a $6.4 million premium. There has been some confusion in the community about that premium. All that represents really is the transferee, or agent bank, Hong Kong-Shanghai's payment to the receiver for what it perceives to be the going concern, the goodwill value of this core of insured deposits which they took over.

Mr. **Barnard**. They took over no assets, just deposits?

Mr. **Burgee**. They were also required to purchase the unclassified, the assets of good bankable quality—$60 million at market value.

Mr. **Barnard**. They got $60 million worth of loans.

Mr. **Burgee**. For $60 million.

Mr. **Martinelli**. No. The assets they received was cash in due for banks, securities, Federal funds, and installment loans.

Mr. **Barnard**. How much did they pay for that?

Mr. **Burgee**. $60 million.

Mr. **Barnard**. I thought you said six.

Mr. **Burgee**. Over and above the $60 million paid to the receiver for these assets of the bank, they paid this premium of $6.4 million which represents, in effect, their recognition of the intangible value, the goodwill value, the going concern value of these core deposits to the tune of $117 million that they assumed liability for to pay as our payment agent.

Mr. **Barnard**. Thank you.

Chairman **St Germain**. Mr. Cooper.

Mr. **Cooper**. Thank you, Mr. Chairman.

I would like to ask if you gentlemen are familiar with the situation with the other Chinese-owned banks in the community, and whether those banks have noninsured deposits.

Are there other yellow certificates floating around right now?

Mr. **Lutz**. Not to our knowledge.

Mr. **Cooper**. This was the only bank in the community that issued these noninsured certificates?

Mr. **Lutz**. As far as we know, yes.

Mr. **Cooper**. The CAMEL rating situation, for a class 3 bank to fail, do you have any idea what percentage of class 3 banks go from class 3 to failure overnight?

Mr. **Lutz**. It is a low percentage.

Mr. **Cooper**. Class 3 banks, were classified as the lowest 10 percent of all banks in the country, or something along those lines?

Mr. **Meadows**. I think that is correct, Congressman Cooper. Most banks that fail would have a CAMEL rating of 4 or 5 prior to the failure but we have had a number of cases involving fraud and when this occurs, regardless of the CAMEL rating, a bank can fail rather quickly.

Mr. **Cooper**. You don't view this as a failure of the rating system here, it went from 3 to failure overnight?

Mr. **Meadows**. No way do we view it as a failure of the system.

Mr. **Burgee**. We did a study recently of the number of banks from different rating numbers that fail, and we will be happy to share that with you as well.

Mr. **Cooper**. There are quite a number of banks with class 3 ratings out there.

Mr. **Burgee**. The apparent reason for the Comptroller's action here was the discovery based on the informant's tip through the surprise examination process of this incredible volume of offbook activity.

It was affirmatively concealed from examiners. That is a bit of an unusual situation. The more typical situation results from a book insolvency where the loan valuations reach to the point where the bank's capital is wiped out.

Mr. **Cooper**. Have you ever had a class 2 bank fail?

Mr. **Meadows**. I would have to check our records, Congressman Cooper. I think we probably have, in a case of fraud.

Mr. **Cooper**. The rating system shouldn't lead anyone to believe that it is a guarantee that the bank will stay in business for a period of time, if there is fraud involved, the rating system in a sense is completely apart from fraud considerations.

Mr. **Meadows**. We are talking about a catastrophic event, it is like a hurricane, it occurs occasionally in a given area, and we have had a few cases of massive fraud in recent years that completely wiped out the capital of the bank in a very rapid order.

Mr. **Cooper**. In view of the pending vote, Mr. Chairman, I have no more questions.

Chairman **St Germain**. The subcommittee will be in recess for 10 minutes.

[Recess.]

Chairman **St Germain**. The subcommittee will come to order.

Mr. Burgee, on page 5, you state, Mr. Isaac said:

> On Wednesday, June 26, the FDIC approved the transfer of approximately $117 million in deposits known to be insured or fully secured to the Hong Kong and Shanghai Banking Corporation.

That is after the comments regarding bidding procedure.

Mr. **Burgee**. Yes.

Chairman **St Germain**. How many bids were submitted?

Mr. **Burgee**. One bid, sir.

Chairman **St Germain**. How many solicitations were there?

Mr. **Burgee**. Thirty-six.

Chairman **St Germain**. I wish you would inform Mr. Isaac. As I assume you know, the committee asked for a list of the individual banks that were asked to bid. Mr. Isaac declined to provide them.

Mr. **Burgee**. Mr. Northup informs me that we have offered to discuss some of the names of the——

Chairman **St Germain**. I would like to see something on this, because there is an interest on the part of a great many people to reform the deposit insurance of the FSLIC and the FDIC. There is also a great desire on the part of the regulators to take a hard look at brokered deposits.

Well, this chairman does have some say as to what we are going to do around here. I am not going to be very happy if I don't get cooperation, because you see I don't subscribe to the sacrosanctity of the process of asking bidders to come in, et cetera, et cetera, et cetera. I am going to be rather insistent upon familiarizing myself with the process so that more of us know a little more about it.

That way we can make better decisions as to how we will operate in the future. This is one way I have of delivering a message to Mr. Isaac, through your good offices and that of your colleague, Mr. Northup.

Maybe this is best asked of the OCC, Mr. Lutz, or perhaps the FDIC. Page 7 states:

> This practice we understand was discontinued some time in 1981. Here we are talking about the instruments offered in 1981 that appear to initially have been issued in relatively large denominations to a limited clientele.

It contains:

> They were pooled and invested in the banks on acceptance and reflected on the bank's books as liabilities. That practice we understand was discontinued some time in 1981. At this or some later point the bank began issuing the certificates in a much larger volume and the use of these certificates was taken off the bank's books and deliberately concealed from examiners.

Ever since I first heard this, I said to myself, was this Mr. Chuang an expert with the shells. You know the shell game, the one where you guess which shell is the pea under. You had these CD's or instruments, let us say, in 1981. A referral is made to Justice. A determination is made by the Fed. And in a whisp of smoke they disappear. Then they reappear on the scene, having been around the mountains and hiding in the bushes, as a result of an informant's phone call in May of 1985.

Mr. Lutz, you are an expert examiner, a brilliant individual who is highly regarded. I am setting you up.

Mr. LUTZ. I know.

Chairman ST GERMAIN. I am not trying to lead you or anything of the sort, but there didn't seem to be a reason for examiners to go in subsequent to the 1980-81 period, where these instruments were carried as bankers' acceptances.

Shouldn't they have said, well, what happened to all of these bankers' acceptances?

Have you gone out of this business? What have you done? Have you substituted something else for them? Would that not have been a legitimate question, or am I wrong?

Mr. LUTZ. As you said at the outset, it is probably something that has been unanswered by the Comptroller of the Currency. They have a more intimate familiarity with the situation than I do certainly.

Chairman ST GERMAIN. Let's use a hypothetical. Let's say this is not the Golden Pacific. This is the Silver Atlantic. This is not examined by the Comptroller.

This is a FDIC examined bank. 1980-81, you have these instruments. They are bankers' acceptances, and poof, they are gone. Would you expect or require that your examiners ask what happened?

Mr. LUTZ. That would be a question that most likely would be posed, yes.

Chairman ST GERMAIN. So tomorrow I will ask OCC if they did ask that question.

Mr. Meadows, do you have something to add?

Mr. MEADOWS. I was just going to say, Mr. Chairman, that the examiner, including myself, putting myself in an examiner's shoes for a moment, the examiner might conclude that a particular practice was criticized, and the bank stopped it.

Chairman ST GERMAIN. Since it had been criticized, since it had been put into question, and all of the sudden it was no longer there, wouldn't natural curiousity just lead one to say:

> By the way, I notice that you don't have anymore of these bankers' acceptances. Did you make a determination to just do away with them entirely?

You don't think that that is a natural question of someone with an inquiring mind? Most examiners, I would imagine, are very inquisitive people.

Mr. MEADOWS. It may be a question that was asked or may not have been asked. There are a lot of different examiners out there. Some are more curious than others.

I don't know what I would have done in that particular situation.

Chairman ST GERMAIN. On the side agreements only one was found. That was a situation involving a bank officer, not a customer. To date that is as far as you have gotten on those; right?

Mr. BURGEE. That is correct, Mr. Chairman.

Chairman ST GERMAIN. We covered this in a different way, but staff prepared the question after our meeting last night, at my direction, in the following manner. We draw a parallel, because, frankly, this will evolve into phase II—phase I being Chicago Continental. This is phase II with many phases to come on deposit insurance reform.

The question is: There are several important similarities in the Golden Pacific and Continental situations. Both banks are experiencing major deposit outflows. There were major balance sheet uncertainties at both banks, and there was evidence of major internal control and management deficiencies in both banks.

In the case of Golden Pacific, you don't know where the collateral is or where the backup is, for the money that was invested in the yellow certificates. In the case of Continental Illinois, they didn't know where the oil rigs were and the gas wells were, et cetera, and A, B, C, D.

Now, as far as the depositors were concerned, however, there was a major difference. The uninsured portions of the deposits of sophisticated international investors, as we discussed earlier, were protected by the FDIC, whether we want to admit it or not.

That was the result of the actions of the FDIC, the Fed, the Comptroller and everyone else involved with Continental. In contrast, the uninsured depositors of Golden Pacific, depositors, families, and small businesses, were lost entirely, unless as a result of liquidation in the future something comes about.

Now, they still have to wait a period of time, whereas those sophisticated depositors in Continental didn't have to wait 24 hours. Once the coup had been accomplished, that is, the military regime had taken over at Continental Illinois Bank, these people were all protected.

Is it not true that depositors, and I am not now referring to Golden Pacific depositors, I am referring to depositors of amounts in excess of $100,000, that they are not being treated the same way as the people were at Continental?

Mr. Burgee.

Mr. **Burgee**. To take exception with your characterization of the facts, I think there were some major differences between the circumstances confronting Continental Illinois National Bank and Golden Pacific. True, as I understand, in Golden Pacific, they were also experiencing some liquidity problems towards the latter days of their existence, but the major difference as far as FDIC is concerned is that Continental was not declared insolvent and closed by its chartering authority, which, of course, happened with respect to Golden Pacific.

The conclusion you draw, though, is inescapable, that the creditors as a result of our assistance in Continental Illinois, which was effected through a different statutory provision altogether were in effect, at least as of the moment of the assistance, were assured of the continuation of a viable institution to look to for repayment of their claims.

That result, though, could have conceivably been realized with respect to Golden Pacific's closing. If we had been able to meet our statutory cost test and justify doing a purchase and assumption-type transaction, with respect to the liabilities and some of the assets of Golden Pacific, all creditors——

Chairman **St Germain**. Tell me what the problem was in meeting the statutory test. Was it the uncertainty about the assets behind the yellow certificates?

Mr. **Burgee**. Yes, sir. That was a major factor. Also, the presumed existence of a large volume of off-book liabilities. FDIC had no way of knowing upon the declaration of insolvency what its total exposure would have been had it faciliated a purchase and assumption-type transaction given the uncertainties as to the existence and volume of liabilities, but you are also quite correct.

Another factor bearing on that is the absence of any evidence as to the existence of some alleged bank assets, and their values.

Chairman **St Germain**. Mr. Burgee, this might not be a fair question. If you don't think it is fair, just say so.

We have had a lot of discussion today about the yellow certificates. The witnesses who came in to testify from the private sector were three witnesses affected by them. One lady and her family have now lost the opportunity to purchase their dream house. Hopefully, that will come back and they will do well, but—then the other two ladies are apprehensive. They are just three people out of 160 whose claims you have on file. Just think. I am sure you are a young gentleman who, along with your family, has been saving your money as you go along. You have goals, and some day you might want to pack it up and go hunting or fishing, golfing, or whatever your desire is; but if at a given point in time that which you have scrimped, worked hard to save all of a sudden goes up in a puff of smoke, you can appreciate how disastrous this would be, and what a shock it is, particularly with people like this who have scrimped, saved and worked long hours.

I venture to say that a lot of the people who have these CD's work 18 hours a day, 7 days a week. Also, their pay is rather low, because they are immigrants who are trying to make it in a new country.

That being the case, I have to ask this question, and that is, has the FDIC given consideration to some kind of a timeframe within which it will make a decision? I mean, how much more information has to be gleaned here before decisions can be made with respect to these yellow certificates.

Mr. **Burgee**. It is not an unfair question at all, and indeed, all of us at this table and all from FDIC here generally take very seriously our responsibility. In fact, we were commenting earlier. It is quite an honor to be sitting at a table bearing the plaques of Congressman Steagall and Congressman Glass who are largely responsible for the creation of the FDIC which has as its very purpose the protection of small depositors.

To answer your direct question, we truthfully believe that there is little else that will be available to us in the form of documentary evidence. As I mentioned earlier, we have outstanding subpoenas that we have issued for other bank records, which are not on the premises of the bank, which we have reason to believe are in existence.

We will make every effort to find those as promptly as possible, and make as prompt as possible a determination on the insurability of these claims. Again, we have had from day one the statutory recourse of throwing this determination into a court for a formal judicial determination.

We feel like if we can, through our own administrative powers, come to a favorable determination, that will be in the long run far more satisfactory and less costly to the affected parties.

All I can say is that we will work to make a decision as soon as is humanly possible.

Chairman **St Germain**. Am I reading you correct? You have rendered a decision this evening or tomorrow morning and say, no, they are not insured and throw it to the courts? The fact that you are holding off is reason for these people to have a little hope still?

Mr. **Burgee**. Absolutely.

Chairman **St Germain**. Because your plan is not to go into the courts, but rather to resolve it yourselves if at all possible.

Mr. **Burgee**. Actually, I believe what the statute contemplates is that without actually denying the insurability, we could go to court and seek declaratory judgment type relief. I suspect if we administratively determine that some or all of these are not insured, that we would be in court ourselves defending that decision.

Chairman **St Germain**. Right.

Mr. **Burgee**. But clearly our hope and expectation is as soon as possible, consistent with our legal constraints and being as fair as possible to all concerned, that we will be able to resolve this ourselves, and we, again, apologize and are very mindful of the hardships this has worked on the affected customers.

We do feel very gratified that we were able within a week's time to accommodate 98 percent of the customers of the bank whose claims we—

Chairman **St Germain**. Are you assuring me that the FDIC is doing its utmost, in as expeditious a manner as possible, to resolve this in a favorable manner, but if you find that you can't, then you will have to turn it over to the courts?

Well, it will go to the courts, but if you were to turn it over to the court now, and ask them to come up with a declaratory judgment, the clock would start to run right from the beginning all over again.

They would have to go through everything you have gone through and who knows what else.

Mr. **Burgee**. If we were to throw this into arbitration or into the lap of a court, they would be confronted with the same conflicting evidence that we are. Someone is going to have to act upon the evidence that is available, not just the documentary evidence again, and come to some sort of determination.

Chairman **St Germain**. Are you going to ask us for a copy of the transcript of this hearing to assist you in your determination?

Mr. **Burgee**. I assume we will be receiving a copy notwithstanding.

Chairman **St Germain**. I think that some good facts and evidence have been brought out in these hearings, and they should be of assistance to you in your deliberations.

Mr. **Burgee**. I understand, and I would just point out I believe our staff has talked to many of the witnesses already, and we have met with these people. We are very familiar with most of their particular circumstances, and will continue to meet with them.

Chairman **St Germain**. I am going to have to excuse myself for another quick vote. I will be right back.

The subcommittee will be in recess for a very short period.

[Recess.]

Chairman St Germain. Mr. Burgee, my staff has been attempting, well, let's put it this way: FDIC's legal staff in New York, I understand, has prepared a memorandum of law on the question related to these yellow certificates. Isn't that correct; a 9-page memorandum?

Mr. Burgee. I can't recall the length, but there has been an analysis done by our legal staff in New York.

Chairman St Germain. Right, and it was done for the FDIC, and has been submitted to the FDIC in Washington.

Mr. Burgee. It has been submitted; presently on my desk.

Chairman St Germain. So your counsel in New York did it for you here. We have asked for a copy of that memorandum. We were told that we can't have it because of an attorney/client relationship.

Now, if my Providence office prepares something for my Washington office, that is not an attorney/client relationship, that is in attorney/attorney or client/client relationship. You know, if there were an outside client involved here—that is one thing.

Mr. Burgee. Well, I believe the concern—I know the concern we had is that of possibly waiving the privilege as to this type of document, that the FDIC might be able to otherwise claim in anticipated litigation. We would be more than happy to sit down with the staff and discuss that situation further, and indeed go through the rationale that is basically summarized in the analysis.

In fact, I think I have pretty much covered many of the legal points already in answer to questions today.

Chairman St Germain. I told my staff that I could see some reason for you not wanting to distribute it to the masses, because of what might occur in the future. By the same token, we would like to be knowledgeable. So I am going to ask you to sit down with my staff, and colloquialize or interlocutate.

Mr. Burgee. We would be more than happy to.

Chairman St Germain. In the spirit of cooperation, we don't need the entire memorandum, but we would like to discuss some points of law with you, if that would be agreeable to you.

Mr. Burgee. I see no problem. Our legal concerns are no secret. I have tried to touch on many of them today.

Chairman St Germain. All right. fine, so we will do it that way. Let's see if we can wrap this up before I have to vote on clean coal. The last one was on synthetic fuels. We have discussed the July 3, 1985 memorandum. We have discussed the stamp and we have gone through motivation. That was in the statement. When did the FDIC first learn that the FBI wanted to have someone in the same building, Mr. Wexler?

Mr. Wexler. I believe New York received a call from the U.S. attorney's office wanting to set up a meeting.

Chairman St Germain. Is that the U.S. attorneys in New York?

Mr. Wexler. That is correct. I was told by my superior that I should act as liaison with our office and attended a meeting. I believe it was either Tuesday or the Wednesday after the bank closed. I believe it was Wednesday, at the U.S. attorney's office, and the FBI was present, three other FDIC persons were present, and at that time—yes, it must have been Wednesday because we knew we were going to be doing the transfer.

They told us that we wanted to question some of these people as to what representations would be made to them by bank officials, and at that time we voiced our concern that it might have a negative impact. And they stated that it was their chance to talk to some of these people as they came in. And we were—didn't even have the time to rent a facility.

We were able to get the public school for that weekend, and initially the first day, the FBI showed up with 18 people. Lucky there wasn't a big crowd. And we were able to convince them to limit it.

Chairman **St Germain**. Were they looking for Dillinger? Go ahead.

Mr. **Wexler**. From the second day on we were able to work out an arrangement where they would stay out in that hallway and had a separate room, and I believe from that time forth, they had no more than three agents at a time working there. And after approximately 2 weeks, they discontinued the practice all together and have not been at the claims office.

Chairman **St Germain**. Did the FDIC work with the FBI in developing the questionnaire that they used?

Mr. **Wexler**. No, sir.

Chairman **St Germain**. Yes, we appreciate your patience with us. I know that you had already received information from the witnesses that testified, prior to hearing them today, but by the same token, you heard the committee members inquiring of them a little differently from the manner in which you probably inquired of them. So, as I stated earlier, I hope that that will be taken into account when you continue your deliberations.

We just want to say thank you, and particularly thank Mr. Isaac for his cooperation. Please tell him that he might want to send a supplementary letter to me because he might get a parking ticket in New York City one of these days and might need the good graces of the singing mayor.

Mr. **Burgee**. I think it would be a mistake to infer from the omission of the mayor——

Chairman **St Germain**. I seriously feel that it was really just an omission that was not intentional, but because of the press of business and the press of the office, you tell Mr. Isaac, if he wants to send me a supplementary statement to add to his statement, where he mentions that, I will put it in the record for him.

Mr. **Lutz**. Before this hearing we had tremendous help from the mayor's office and also from the police department in New York City. And I sent two representatives a letter thanking them very much for all their help. So we are on the record in that sense, at least in a personal vein, that we have acknowledged their assistance.

Chairman **St Germain**. I know that they are doing their utmost to help out. We will recess the hearing until tomorrow morning when we will hear from the Justice Department and the Office of the Comptroller of the Currency.

[Whereupon, at 6:35 p.m., the hearing was adjourned subject to the call of the Chair.]

[The following additional material was submitted for inclusion in the record:]

②

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Congress of the United States
House of Representatives
Washington, D.C. 20515

FOREIGN AFFAIRS COMMITTEE
SUBCOMMITTEE ON EUROPE AND THE MIDDLE EAST
SUBCOMMITTEE ON ASIAN AND PACIFIC AFFAIRS
SUBCOMMITTEE ON HUMAN RIGHTS AND INTERNATIONAL ORGANIZATIONS

GOVERNMENT OPERATIONS COMMITTEE
SUBCOMMITTEE ON LEGISLATION AND NATIONAL SECURITY
SUBCOMMITTEE ON ENVIRONMENT, ENERGY, AND NATURAL RESOURCES
SUBCOMMITTEE ON GOVERNMENT ACTIVITIES AND TRANSPORTATION

SELECT COMMITTEE ON AGING
SUBCOMMITTEE ON HUMAN SERVICES

July 30, 1985

Hon. William Isaac
Chairman
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

Dear Mr. Isaac:

I am writing on behalf of constituents of mine who opened accounts in a representative office of the Golden Pacific National Bank in San Mateo, California.

My constituents purchased Certificates of Deposit in the San Mateo branch that are normally insured by the FDIC. Even though the deposits in the representative offices were made in violation of banking regulation, I was pleased to learn that the FDIC will accept all proper deposits made in these offices to be covered by insurance if such deposits were made with the full faith and belief that the account was covered by FDIC insurance.

I have learned, however, that some of my constituents deposits were placed not in insured accounts as intended, but in higher yield uninsured accounts. The decision to deposit the funds in uninsured accounts was made not by the depositors, but at the direction of the main office in New York. The depositors were of the belief that their accounts were FDIC insured, and did not give adequate permission for transfer of funds from the insured accounts to the uninsured accounts. These depositors would be unfairly harmed if their deposits are not accepted for insurance. In light of this fact, I strongly urge the FDIC to expedite the decision and to accept as fully insured by the FDIC all accounts opened with the belief that they were insured.

Cordially,

Tom Lantos

Tom Lantos
Member of Congress

TL/hg

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July 8, 1985

Howard Herman → [illegible] 212-704-1200
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Regional Senior Attorney - Liquidations
Federal Deposit Insurance Corporation
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452 Fifth Avenue
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Re: FDIC insurance coverage for out-of-state depositors of Golden Pacific National Bank (G.P.N.B.)

Dear Mr. Herman:

I represent some of the depositors who opened accounts at Representative Offices of G.P.N.B. located in San Mateo, Monterey Park, Houston, Chicago and Boston. These deposits total over $15 million among approximately 1000 people.

I understand that the FDIC has acknowledged insurance coverage for any losses up to the insured amount for most New York account holders. However, I also understand that you have announced that accounts that were opened from Representative Offices in other states were being placed in the "questionable" category because of the limited authorization of these Representative Offices to accept deposits.

Your announcement has caused a panicky situation among these depositors from other states. Many of them are Chinese who can barely speak English and who have placed their life savings into these Representative Offices. Some are businesses which cannot endure the hardships of assets frozen for very long.

I have made some preliminary study into the situation and feel that there are extenuating circumstances in this case that merit consideration by you in your exercise of discretion.

Most of the out-of-state depositors knew nothing of the limitations of the Representative Offices to accept deposits. When they went to the Representative Office, they relied on advertising signs stating that accounts of G.P.N.B. were "Federally Insured by the FDIC". When they deposited their funds, they were given blue C.D.'s or Money Market Certificates. They also received monthly statements from New York showing that they had active accounts there. They also believed that the

Comptroller of Currency in New York was actively monitoring the bank and most depositors received a "Statement of Financial Conditions" showing the bank to be stable and doing well. The bank had an eight year history and some Representative Offices that had been operating for over six years. The out-of-state depositors were at all times innocent parties who knew nothing about any bank irregularities and relied on the reputation of the bank as well as the integrity of the governmental monitoring process by the various banking authorities. The very fact that the bank survived so many years of governmental monitoring was undoubtedly a very strong assurance to depositors of the stability of the bank. The public does place great importance to FDIC insurance and the regular audits by bank examiners. But for the fact of FDIC Insurance coverage, these out-of-state customers would not have made the deposits in G.P.N.B.

The accounts opened in these Representative Offices were mostly C.D.'s which bore the identical interest rates as those issued in New York and the Certificates themselves were also identical except for the account numbers. In most cases, these depositors were told that the account was being opened in New York and that the deposits were being tranferred to there also. These facts were supported by monthly statements showing accounts under their names in New York. Yet depositors in New York are insured and the same type of depositors from other states have not yet been notified of coverage even though the Representative Offices operated from procedures established from bank officials in New York where the money was transferred. This is clearly arbitrary and unreasonable discrimination. The irregularities that were committed were set up by bank officials in New York who established the business practices that were followed by all the out-of-state Representative Offices. How then can depositors from New York be insured for the misfeasance and malfeasance of bank officials and not depositors from other states. This distinction has no rational basis and clearly extends preferential treatment to New York depositors at the expense of those in other states.

What then happens to the money deposited in New York? I understand that if you do not return this money to out-of-state depositors, you might be crediting these deposits to general accounts for the benefit of New York depositors and that out-of-state depositors become nothing more than general unsecured creditors. This is also arbitrary and discriminatory.

The decision by the FDIC is particularly unjust and outrageous in the light of the fact that the out-of-state deposits were accessed a premium for the FDIC insurance since these accounts were counted as part of the New York accounts even though they were opened in other states. All out-of-state deposits were wired to G.P.N.B. in New York on a daily basis. How then can the FDIC deny coverage where the insurance premiums are actually received and the accounts were "insured"?

All the out-of state depositors are angered and indignant over your decision to withhold the insurance coverage. I believe that a negative decision on your part would indeed produce an ugly reaction and cause tremendous insecurity in depositors of all Chinese banks. Many businesses will not be able to endure the hardships of frozen assets for any length of time and many individuals will panic as they did in New York when the bank was first closed.

I know that the FDIC has the authority to decide the insurance issue administratively. I ask that you look beyond the surface issues and look to the public policy issues of this case. The public has faith in the U.S. banking system which is about to be eroded away if the decision is made to deny coverage on deposits insured by the FDIC due to minor technicalities.

The out-of state depositors have in no way contributed to the crisis and have relied on G.P.N.B.'s representation that the deposits were insured by the FDIC. I doubt if the public could understand or accept with equanimity the distinction made by the FDIC between the out-of state and New York accounts when it seems apparent that the business practices of Representative Offices came from business pratices established by officials of the bank in New York.

I believe that you should place this issue among the highest priorities and that an affirmative decision should be rendered promptly. I would hope that this matter can be handled administratively rather than having to resort to the courts for a determination. I believe that litigation will cause irreparable harm not only to the depositors but the public confidence that is enjoyed by the banks that are "Federally Insured by the FDIC".

Please do not hesitate to call me if you have any questions. I would like to be informed when you are ready to make your decision.

Yours Truly,

Edward CY Lau

Edward C.Y. Lau
Attorney at Law

cc: Willian Isaac
Federal Home Loan Bank
Comptroller of Currency
Congressman Tom Lantos
Congressman Ed Zschac
G.P.N.B. Depositors - Boston, Houston, Chicago, and Monterey Park
Michael Martinelli
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July 22, 1985

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Regional Senior Counsel - Liquidations
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New York, New York 10018

Re: F.D.I.C. insurance coverage for blue C.D. funds posted in the books of Golden Pacific National Bank (G.P.N.B.) as deposits in the International Banking Fund (I.B.F.)

Dear Mr. Herman:

It has come to my attention that many blue C.D. depositors from out of state branches of G.P.N.B. have been denied access to F.D.I.C. insurance benefits. Your news release of July 12, 1985 announced that "...deposits improperly accepted by the failed Golden Pacific National Bank at loan production offices in five U.S. cities are eligible for deposit insurance coverage." Some of these clients are now being told that they are not being covered because their deposits were posted into uninsured I.B.F. accounts. Still other clients are being told that their deposits were unbooked on the bank's computer and are therefore uninsured. These discoveries are resulting in panicky calls to my office from desperate depositors who have become emotionally angered and enraged over the decision to withhold insurance coverage on blue certificates posted in I.B.F. accounts. This has been especially frustrating to those depositors who see other blue C.D. holders being paid insurance benefits for blue C.D.'s that are identical to theirs.

I have carefully documented several cases which are representative of the situation involving these uninsured blue C.D.'s and are attaching these to this letter for your review so that you can take these special circumstances into consideration as you decide what to do. None of the uninsured blue C.D. holders knew anything of the internal processes by which the deposits were placed into the I.B.F. accounts in New York. These depositors innocently walked into local loan processing offices and openned up blue C.D. accounts. These five offices all had prominent signs on the door, on the windows and on the desks giving the impression that accounts were "Federally Insured" by the F.D.I.C. The same representations were also made in advertisements in various Chinese Newspapers. Many of the depositors even deliberately limited their accounts to $100,000 to conform to insurance limitations. Some divided their deposits among other members of their family in order to gain "full insurance protection". Had they known that out-of-state offices were "...prohibited by law from accepting deposits...", or that the deposits were not insured, they would not have done business at the out-of-state branches. Part of the problem was resolved by your July 12, 1985 announcement of insurance coverage. Everyone was elated at the announcement. It has now come as a great shock to learn that someone in New York randomly placed certain deposits into the I.B.F. accounts. Deposits were collected in out-of-state branches and wired on a daily basis to New York. No one seems to know why some of these blue C.D. deposits were posted to regular C.D. accounts and why some were posted to I.B.F. accounts. In all cases, the blue C.D.'s were the same, the interest was the same, and the monthly statements gave no indication that the monies were posted in special uninsured accounts.

The uninsured blue C.D. holders were at all times innocent parties who had no idea their money was being placed into uninsured accounts by bank officers in New York. None of them had even heard of an I.B.F. account until recently.

Even more outraged are the long time depositors who started with insured blue C.D. accounts which "mysteriously" were reposted into the I.B.F. accounts on renewal without notice and without permisson. I consider this to be criminal conversion of funds. I am awed that the banks auditors from the Controller of Currency failed to discover these irregularities and illegalities after so many years. This certainly does not give confidence to the public as to the integrity of the governmental monitoring processes and as a matter of fact probably contributed to the public's ill-fated belief in the bank's stability. It is hard to believe that an out-of-state branch could operate for 6 years and collect deposits without discovery by bank auditors. None of the blue C.D. holders (insured or uninsured) had any idea of the illegalities and irregularities and had they known this, they most certainly would not have deposited their monies at G.P.N.B. when there were many local banks paying the same interest rates. Even the local representatives did not know what was going on in New York because they themselves also placed funds in the blue C.D. accounts and have suffered the same as other depositors. Yet coverage will depend not on objective factors but rather the spin of luck. If the bank cashier in New York happened to post the deposits in the regular C.D. accounts, there would be coverage. If the deposits happened to be posted in the I.B.F. account, there would be no insurance. In either event, the wrong is still being committed in New York and the public is being deceived into believing that all blue C.D.'s are the same when in fact some blue C.D.'s are insured accounts and other blue C.D.'s are not. In all cases, the local representatives and depositors had no say in the matter and were not aware of these internal irregularities. To insure some blue C.D. depositors and deny insurance to other blue C.D. depositors who made deposits under the same circumstances at the same branches solely on the basis of how the cashier in New York happen to post the account during acts of malfeasance and misfeasance is clearly arbitrary and unreasonable.

The most outraged group are those depositors who have made deposits which have not yet even shown up in the books of the bank as any type of deposit. As in the case of the blue C.D. holders whose funds were transferred into the I.B.F. account without their knowledge and consent, these individuals were not aware of G.P.N.B.'s failure to immediately post their money into a "Federaly Insured" C.D. account. These innocent depositors assumed their deposits would be immediately placed into a federally insured C.D. accounts pursuant to their instructions. They were never told by any of G.P.N.B.'s bank officials that their funds had been placed in an unbooked account. As long as the money has been received by the New York office, the depositors should not be penalized for the misfeasance or malfeasance of the bank employees in failing to post the deposits in these "Federally Insured" C.D.'s. I realize that this is a precedent setting case. It is being watched carefully by security analysts and institutional investors. A negative decision or a long drawn out decision will only fuel the fires of despair and distrust of all minority banks. Many depositors must have access to these monies for daily living and survival. The public cannot endure this type of hardship and insecurity. Surely you must be aware of the ugly reaction of the public during runs on the United Bank in San Francisco and the branches of G.P.N.B. when people thought their hard earned money was in jeopardy.

I know that the F.D.I.C. has the power to decide these issues administratively. I ask that you look to the good of the public and the integrity of the banking system and insure all blue C.D. depositors. To do otherwise will undermine the public confidence in minority banks and cause the public to believe that "Federally Insured" accounts may no longer be safe. You cannot take the attitude of "Let the depositors beware". It is up to the Comptroller of Currency and the F.D.I.C. to establish the proper monitoring processes to insure compliance by the bank with proper legal procedures. A single depositor at an out-of-state branch has no reasonable way to undertake such investigation of the bank's procedures.

I have been told that even if the decision is made to deny insurance on some blue C.D.'s, these depositors will still be entitled to share in the liquidated assets of the bank as general creditors. This is an unacceptable alternative. The individual depositors are not equipped to jump into a legal fight that will last years to establish their claim to insufficient assets. The harm to individuals and businessmen who depend on this money will be irreparable. These depositors have in no way contributed to the crisis. They are innocent victims who deserve to be given special consideration in your exercise of administrative discretion. I hope that you will place this matter on your highest of priorities.

Please do not hesitate to call me if you should have nay questions.

Yours Truly,

Edward CY Lau

Edward C.Y. Lau
Attorney at Law

cc: William Isaac
Comptroller of Currency
Rae Shupack, Esq.
Congressman Tom Lantos
Congressman Ed Zschau
John Gallaway
Michael Martinelli
Mike Hoven
Senator Pete Wilson (Cynthia Overholt)
G.P.N.B. Depositors Committee in Boston, Houston, Chicago, Montery Park
Anna Credeau

ECYL:sl

enclosures

GOLDEN PACIFIC NATIONAL BANK

THURSDAY, AUGUST 1, 1985

House of Representatives,
Subcommittee on Financial Institutions
Supervision, Regulation and Insurance,
Committee on Banking, Finance and Urban Affairs,
Washington, DC.

The subcommittee met, pursuant to call, at 10:25 a.m., in room 2118, Rayburn House Office Building, Hon. Fernand J. St Germain (chairman of the subcommittee) presiding.

Present: Chairman St Germain; Representatives Annunzio, Barnard, Cooper, Manton, Wylie, McKinney, and Wortley.

Chairman **St Germain**. The subcommittee will come to order.

One of this subcommittee's longstanding concerns has been the coordination between the banking regulators and the Justice Department in the pursuit of criminal misconduct in the Nation's banking system.

Too often, the banking agencies make referrals, fail to follow up with the Justice Department, and feign great surprise when nothing happens with the prosecution. All too often, I fear, the simple fact of a referral is enough excuse for the regulatory agency to ignore its own administrative remedies.

The record of the Justice Department on referrals involving banks is dismal, at best. During a recent period, the Justice Department declined nearly two-thirds of criminal referrals involving insiders in open problem banks. Like the banking agencies, the Justice Department's record improves after a bank fails—wonderful hindsight, but not much of a record with the type of prosecution that might have a therapeutic effect on the industry.

In the case of Golden Pacific, Justice received a referral back in 1981. The referral moved around on a few desks at the U.S. attorney's office in New York, went briefly before a grand jury before the interest and energy of the prosecutors wore down. In October of 1984, the U.S. attorney's office dropped the case entirely—and didn't even bother to notify the Comptroller's office that it had happened . . . not even a postcard or a form letter.

Later efforts by the OCC to get Justice's interest in current problems met with little more than a yawn. Now, we understand that Justice and the U.S. attorney's office at long last in scurrying around, trying to catch up.

Beyond the referral, OCC appears to have done little. Its arsenal of cease and desist powers, removal authority, civil money penalties all rested on shelves gathering dust. Unfortunately, it's a pattern that is all too familiar to this committee.

Perhaps, the difficult problems involving the yellow certificates, the claims of the bank's customers, and FDIC's bureaucratic heavy handedness could have been avoided with more vigor, a little creativity, and concern on the part of OCC and the Justice Department when it could have counted.

At this time we have Mr. Selby and Mr. Patriarca before us. Mr. Selby and Mr. Patriarca, will you stand, and while Mr. Taylor, Mr. Alexander and Mr. White are here, would you three also stand?

Raise your right hand.

[Witnesses sworn.]

Chairman **St Germain**. Please be seated.

Mr. Selby, we understand you have a written statement to present to us. We are awaiting your performance with bated breath.

You may proceed. We will put your entire statement in the record.

STATEMENTS OF H. JOE SELBY, ACTING COMPTROLLER OF THE CURRENCY, ACCOMPANIED BY MICHAEL PATRIARCA, DEPUTY COMPTROLLER OF THE CURRENCY; RICHARD M. ALEXANDER, ATTORNEY, ENFORCEMENT AND COMPLIANCE DIVISION; THOMAS W. TAYLOR, DEPUTY COMPTROLLER, NORTHEASTERN DISTRICT; AND ROBERT A. WHITE, NATIONAL BANK EXAMINER

Mr. **Selby**. Thank you, Mr. Chairman.

If you will enter my full statement in the record, I will summarize it now.

Mr. Chairman, members of the subcommittee, I have been asked to appear today to discuss the OCC's supervision of the Golden Pacific National Bank. The OCC declared the bank insolvent on June 21, 1985 and appointed the Federal Deposit Insurance Corporation receiver on that same date. The bank was declared insolvent due to the discovery by OCC examiners of substantial evidence of fraud in the bank's operations.

At the outset, it should be noted that the transactions which caused the insolvency of the bank are extremely complex and, in our opinion——

Chairman **St Germain**. See if you can get a little closer to that mike. It needs tender loving care. It wishes to be embraced, then it reacts beautifully.

Mr. **Selby**. If I put it in my mouth, I can't say anything, Mr. Chairman.

Chairman **St Germain**. You are doing great.

Mr. **Selby** [continuing]. Thank you. Is that better? May have resulted from a serious breach of the fiduciary responsibilities of both management and the directorate of the bank. Due to the complexities of these transactions, the public, including the many holders of the bank's so-called yellow certificates has not yet had the opportunity to fully understand the factors that led to our determination that the bank was insolvent. It is my hope that this hearing will provide a greater understanding of the circumstances that led to the declaration of the bank's insolvency.

In May 1985, the OCC received detailed information from a confidential informant concerning alleged irregularities in the operations of Golden Pacific National Bank. This information, which appeared to be extremely reliable, indicated that the bank was soliciting and accepting deposits in order to fund off-balance sheet investments through a bank controlled custodian account. The informant advised the OCC that the bank was issuing so-called yellow certificates of deposit for these funds instead of the bank's usual blue certificates of deposit. This information suggested that the particular investments being funded with these certificates were connected to insiders of the bank and their related interests. Of particular concern, the OCC was also informed that the bank had deliberately hidden this certificate activity from the national bank examiners by removing all supporting documentation at all previous examinations of the bank. This information was immediately provided to the New York offices of the FDIC and the Federal Reserve.

The OCC arranged a meeting between the informant and a representative of the U.S. attorney's office in order to provide the latter with a firsthand account of the information provided to the OCC.

After taking steps to ensure that the OCC was not undermining any ongoing or potential criminal investigation, we commenced an examination of the bank on June 17, 1985. An examiner from the FDIC's New York office also participated in this examination. In contrast to our usual procedures, this examination was commenced without any advance notice to the bank, in order to minimize the possibility that certain documents might be removed from the bank or otherwise concealed from the examiners. The primary purpose of this comprehensive and coordinated examination was to verify all assets and liabilities of the bank.

During the examination, the examiners were able to establish the existence of the yellow nonnegotiable certificates which were not reflected on the bank's books and records. Thereafer, the examiners determined that approximately $15,700,000 in such certificates were outstanding as of April 30, 1985, through a review of certain bank records which had never before been available to OCC personnel prior to this unannounced examination.

During the examination, the examiners repeatedly requested any and all information regarding the bank's interest in assets supporting these liabilities. On Friday evening, the OCC convened a meeting with representatives of Golden Pacific in order to provide the bank with a final opportunity to produce documentation supporting these assets. During this meeting, some documentation was provided that evidenced the bank's interest in Bankers' Acceptances. The bank also produced certain notes receivable issued by the realty firm and documents which purported to represent some interest in hotel condominiums in Taiwan. However, with the exception of the bankers' acceptances, the documentation produced and the statements made by the bank and its counsel were incomplete and inadequate to establish the value of any assets or the bank's interest in any such assets.

At the conclusion of this meeting, the OCC determined that the yellow certificates were clearly liabilities of the bank. In making this determination, the OCC reviewed the facts and circumstances surrounding the acceptance of these yellow certificates, and their use to fund investments of insiders and their related interests. Finally, the OCC considered the bank's inability to produce any tangible record of assets or cash sufficient to cover its unbooked liabilities. Based on this review, the OCC determined that Golden Pacific's liabilities exceeded its assets, declared the bank insolvent at 10:20 p.m., and appointed the FDIC as receiver.

In bank failure situations, the OCC always endeavors to provide the FDIC with as much advance notice as possible, particularly in bank closings where failure can be reasonably predicted, sometimes weeks and months in advance. However, the events surrounding the closing of Golden Pacific necessitated swift action by both the OCC and the FDIC. Despite the lack of advance notice and time for adequate planning, both agencies reacted in a timely and professional manner.

Golden Pacific was chartered in 1977, primarily to serve the Chinese-American community of New York City. Examinations of the bank prior to June 1980 revealed no major operational deficiencies warranting special supervisory attention. However, the examination commenced on June 16, 1980 revealed deterioration in the overall condition of the bank. As a result of the deficiencies noted in this examination, the bank was put under special supervision and placed in the OCC's Special Projects Program. In addition, on December 10, 1980, Golden Pacific entered into a memorandum of understanding with the OCC in which the bank agreed, among other things, to formulate a management plan, improve certain lending deficiencies, correct internal control exceptions, supplement its audit program, adopt a conflict of interest policy and correct violations of law.

Subsequent to the June 1980 examination, the OCC received a complaint from an attorney representing certain shareholders of the bank which alleged that senior officials of Golden Pacific were engaged in irregular activities at the bank. Based on this information, the OCC commenced a special investigation of these activities in January 1981. This investigation was conducted in conjunction with the regularly scheduled January examination in order to prevent the bank from discovering that these allegations were part of the OCC's inquiry.

The special investigation confirmed several allegations contained in the attorney's letter. In particular, the investigation revealed instances of preferential treatment to insiders as well as abusive practices by certain officers of the bank. Since these activities suggested violations of criminal statutes, a criminal referral was made to the U.S. attorney's office for further investigation and prosecution. It is critical to note that the activities addressed in this referral were in no way related to the off-balance sheet activities which were revealed for the first time in 1985 and which led to the insolvency of the bank.

There have been some recent statements reported in the media which suggest that subsequent to this January 1981 examination, the OCC sanctioned the certificate of deposit activity that ultimately led to the bank's failure. Although the OCC has already provided a detailed chronology that addresses this very issue, I think it is critical that both the subcommittee and the public understand the significant distinctions between the 1981 activity and the 1985 activity. In 1981, Golden Pacific was issuing certain nonnegotiable certificates, pooling these funds and investing them in its own Bankers' Acceptances. OCC examiners criticized the bank for its failure to characterize these certificates as creating a deposit relationship with the customer and also criticized the bank for its failure to properly account for these deposits in accordance with certain Federal Reserve regulations. At that time, there was never any question that the bank was engaged in such activity nor that the OCC viewed these transactions as deposits and consequently liabilities of the bank. In sharp contrast, however, the activity discovered in 1985 involved nonnegotiable certificates that were not reflected on the bank's books and records, which were deliberately concealed from the OCC examiners and which were utilized to fund investments of insiders of the bank and their related interests, possibly to circumvent the restrictions governing insider transactions.

Subsequent to the January 1981 examination, the OCC continued to monitor the bank's condition closely, using frequent examinations of the bank to determine any potential problems. In addition, the OCC carefully monitored the bank's compliance with the Memorandum of Understanding. The OCC's supervisory approach also included a commitment to assist the U.S. attorney's office in the handling of the 1981 criminal referral.

As previously mentioned, the OCC conducted an indepth investigation of certain alleged irregularities in the bank in 1981. As a result of this investigation, the OCC forwarded a criminal referral to the U.S. attorney's office for the southern district of New York. Subsequent to the submission of this criminal referral, the OCC received a grand jury subpoena requiring the production of certain documents obtained during our investigation in 1981. Thereafter, the OCC arranged for the examiner who conducted the investigation to meet with representatives of the U.S. attorney's office and the FBI to discuss the scope of his investigation and findings. Several other subpoenas were received by the OCC and each time the OCC provided the documents requested and provided the assistance of OCC examiners in explaining the significance of such documentation.

Throughout this time period, the OCC's New York district office was in regular communication with the assistant U.S. attorney who was handling the case. Several meetings were held concerning the scope of the investigation as well as the production of documents and examiner assistance. In fact, during the summer of 1984, the examiner originally responsible for the investigation was authorized to work as an agent of the grand jury for a 2-month period. The examiner assisted the assistant U.S. attorney in the preparation of her case and participated in meetings between the targets of the referral and the U.S. attorney's office. Subsequent to the examiner's assignment to the grand jury in the summer of 1984, the examiner was contacted by the assistant U.S. attorney who advised him that the criminal investigation would probably be dropped. The OCC recently learned that the U.S. attorney's office notified the Federal Reserve Board that the investigation had been closed in October 1984.

I hope that my testimony has provided insight into the reasons why the OCC, in fulfillment of its statutory mandate, declared

Golden Pacific National Bank insolvent on June 21, 1985. I am confident that the members of the subcommittee share our concern for the serious breach of public trust which caused the bank's insolvency. The OCC stands ready to provide any additional information that may be needed to complete your inquiry into this matter.

Mr. Patriarca and I are ready to answer any questions that the subcommittee might have, Mr. Chairman.

[The prepared statement of Mr. Selby follows:]

STATEMENT OF
H. JOE SELBY
ACTING COMPTROLLER OF THE CURRENCY
BEFORE THE
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS SUPERVISION, REGULATION AND INSURANCE
OF THE
COMMITTEE ON BANKING, FINANCE, AND URBAN AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
AUGUST 1, 1985

Mr. Chairman, Members of the Subcommittee, I have been asked to appear today to discuss the OCC's supervision of the Golden Pacific National Bank. The OCC declared the bank insolvent on June 21, 1985 and appointed the Federal Deposit Insurance Corporation receiver on that same date. The bank was declared insolvent due to the discovery by OCC examiners of substantial evidence of fraud in the bank's operations.

At the outset, it should be noted that the transactions which caused the insolvency of the bank are extremely complex and, in our opinion, may have resulted from a serious breach of the fiduciary responsibilities of both management and the directorate of the bank. Due to the complexities of these transactions, the public, including the many holders of the Bank's so-called "yellow" certificates has not yet had the opportunity to fully understand the factors that led to our determination that the bank was insolvent. It is my hope that this hearing will provide a greater understanding of the circumstances that led to the declaration of the bank's insolvency.

I would like to review several key areas concerning this matter. First of all, I would like to describe the findings of OCC's examiners during the week of June 17, 1985 . Second, I will give a brief overview of some of the historical problems that faced Golden Pacific. Finally, I will discuss the criminal referral made by the OCC to the United States Attorney's Office for the Southern District of New York. With respect to the criminal referral and the events that led to the closing of the bank, I refer the Subcommittee to the more detailed chronologies that are attached to my formal statement and that were previously submitted to the Subcommittee on July 16, 1985.

The Findings of the 1985 Examination

In May of 1985, the OCC received detailed information from a confidential informant concerning alleged irregularities in the operations of Golden Pacific National Bank. This information, which appeared to be extremely reliable, indicated that the bank was soliciting and accepting deposits in order to fund off-balance sheet investments through a bank controlled custodian account. The informant advised the OCC that the bank was issuing so-called "yellow" certificates of deposit for these funds instead of the bank's usual "blue" certificates of deposit. This information suggested that the particular investments being funded with these certificates were connected to insiders of the bank and their related interests. Of particular concern, the OCC was also informed that the bank had deliberately hidden this certificate activity from the national bank examiners by removing all supporting documentation at all previous examinations of the bank. This information was immediately provided to the New York offices of the FDIC and the Federal Reserve.

The informant's allegations raised serious concerns about the safety and soundness of Golden Pacific's operations as well as potential wrongdoing by senior officials of the bank. Therefore, the OCC decided to commence an unscheduled examination of the bank and coordinate all such actions with the United States Attorney's Office. In fact, the OCC arranged a meeting between the informant and a representative of the United States Attorney's Office in order to provide the latter with a first hand account of the information provided to the OCC.

After taking steps to ensure that the OCC was not undermining any ongoing or potential criminal investigation, the OCC commenced an examination of the bank on June 17, 1985. An examiner from the FDIC's New York office also participated in this examination. In contrast to our usual procedures, this examination was commenced without any advance notice to the bank, in order to minimize the possibility that certain documents might be removed from the bank or otherwise concealed from the examiners. Examiners were dispatched to the bank's main office in New York City and simultaneously to the bank's five loan production offices in order to ascertain whether any certificate of deposit activity was taking place at these loan production offices. The primary purpose of this comprehensive and coordinated examination was to verify all assets and liabilities of the bank. Examiners were provided with administrative subpoenas to ensure the immediate production of all relevant documentation.

During the examination, the examiners were able to establish the existence of the "yellow" non-negotiable certificates which were not reflected on the bank's books and records. Thereafter, the examiners determined that approximately $15,700,000 in such certificates were outstandin as of April 30, 1985. The examiners were able to establish both the existence of these certificates and the outstanding amount through a review of certain bank records which had neve before been available to OCC personnel prior to this unannounced examination.

As it became clear that the bank had accumulated significant liabilities through the acceptance of the "yellow" certificates, it became critical that the examiners verify whether such liabilities were backed by valid bankable assets. On a number of occasions, the examiners requested from the bank's senior management any and all information and documentation supporting the existence of valid assets to offset these liabilities. Despite such demands, no such information was produced until Friday, June 21st at which time Vice President Theresa Shieh stated, for the first time, that these "yellow" certificates were being utilized to fund several "off balance sheet investments." The OCC was advised that those investments included a realty firm holding title to the bank's main office, a corporation with overseas investments, bankers acceptances, a realty firm involved in construction activities and the subject bank's 1983 stock issuance. At this time, the OCC also learned that most of these investments were tied to insiders and their related interests.

Ms. Shieh was unable to produce any evidence to demonstrate that these assets were held in the bank's name or that the bank had any right to repayment from such assets. The existence of the liabilities arising out of the "yellow" certificates coupled with the bank's funding of off-balance sheet investments suggested, for the first time, the potential for insolvency at the institution.

Based on the information provided by Ms. Shieh as well as the verification of the off-book certificate activity, the OCC determined that it was necessary to immediately issue a Temporary Order to Cease and Desist to prevent the further acceptance or solicitation of any off-book deposits. Additionally, the OCC determined that the immediate suspension of the bank's two senior officers was necessary to protect the interests of the depositors and shareholders of the bank.

While these enforcement actions were being drafted, a liquidity crisis began at the bank as a result of adverse publicity in the local community. By the close of business on Friday, June 21st, it became evident that the bank would have difficulty meeting its obligations. This liquidity crisis coupled with the bank's inability to provide any documentation supporting the bank's interest in the "off-balance sheet investments" raised serious concerns as to the ongoing viability of the institution.

On Friday evening, the OCC convened a meeting with representatives of Golden Pacific in order to provide the bank with a final opportunity to provide documentation supporting the bank's interest in the "off-balance sheet investments." During this meeting, some documentation was provided that evidenced the bank's interest in Bankers' Acceptances. The bank also produced certain notes receivable issued by the realty firm and documents which purported to represent some interest in hotel condominiums in Taiwan. However, with the exception of the Bankers' Acceptances, the documentation produced and the statements made by the bank and its counsel were incomplete and inadequate to establish the value of any assets or the bank's interest in such assets.

During this meeting, the bank argued that the "yellow" certificates were not in fact liabilities of Golden Pacific but instead represented an "agency relationship" between the bank and its customers. It was the bank's contention that the existence of the certificates was, therefore, irrelevant to a determination of the solvency of the bank. The bank's arguments were considered by senior officials in both the OCC's New York and Washington offices but it was determined that the "yellow" certificates were clearly liabilities of the bank. In making this determination, the OCC reviewed the facts and circumstances surrounding the acceptance of these "yellow" certificates and the use of such deposits to fund investments of insiders and their related interests. The OCC also considered the information provided by its confidential informant which had been verified through our examination. Finally the OCC considered the bank's inability to produce any tangible record of assets or cash sufficient to cover its unbooked liabilities. Based on this review, the OCC determined that Golden Pacific's liabilities exceeded its assets, declared the bank insolvent at 10:20 p.m. and appointed the FDIC as receiver.

In bank failure situations, the OCC always endeavors to provide the FDIC with as much advance notice as possible, particularly in bank closings where failure can be reasonably predicted, sometimes weeks and months in advance. However, the events surrounding the closing of Golden Pacific necessitated swift action by both the OCC and the FDIC. Despite the lack of advance notice and time for adequate planning, both agencies reacted in a timely and professional manner.

Historical Problems Of Golden Pacific National Bank

Golden Pacific was chartered in 1977, primarily to serve the Chinese-American community of New York City. Examinations of the bank prior to June, 1980 revealed no major operational deficiencies warranting special supervisory attention. However, the examination commenced on June 16, 1980 revealed deterioration in the overall condition of the bank. In particular, OCC examiners discovered deficiencies in the bank's lending operations, an inadequate reserve for loan losses, internal control exceptions and violations of law. These problems were primarily attributable to inadequate supervision by the Board of Directors and weaknesses in the bank's management and support staff.

As a result of these problems, the bank was put under special supervision and placed in the OCC's Special Projects Program. Under this program, a bank is subject to greater scrutiny, including more frequent examinations and monthly reporting of certain information. In addition, on December 10, 1980, Golden Pacific entered into a Memorandum of Understanding with the OCC in which the bank agreed, among other things, to formulate a management plan, improve certain lending deficiencies, correct internal control exceptions, supplement its audit program, adopt a conflict of interest policy and correct violations of law.

Subsequent to the June 1980 examination, the OCC received a complaint from an attorney representing certain shareholders of the bank which alleged that senior officials of Golden Pacific were engaged in irregular activities at the bank. Based on this information, the OCC commenced a special investigation of these activities in January of 1981. This investigation was conducted in conjunction with the regularly scheduled January examination in order to prevent the bank from discovering that these allegations were part of the OCC's inquiry.

The special investigation confirmed several allegations contained in the attorney's letter. In particular, the investigation revealed instances of preferential treatment to insiders as well as abusive practices by certain officers of the bank. Since these activities suggested violations of criminal statutes, the decision was made not to proceed administratively but instead, to refer the examiner's findings to the U.S. Attorney's Office for further investigation and prosecution. This decision was based, in part, on the OCC's concerns that further administrative action could seriously undermine a potential investigation in this case or result in the destruction of evidence. Furthermore, the OCC determined that the more frequent examination schedule and monthly reporting resulting from the bank's entry into the Special Projects program would enable the OCC to conduct more intensive supervision of the bank.

It should be noted that during this investigation, there were never any allegations nor was there any information to suggest that the bank was involved in off-balance sheet activity. To the contrary, the specific transactions verified and documented by the examiner and referred to the U.S. Attorney were totally unrelated to the activity that caused the bank's insolvency in 1985.

There have been some recent statements reported in the media which suggest that subsequent to this January 1981 examination, the OCC sanctioned the certificate of deposit activity that ultimately led to the bank's failure. Although the OCC has already provided a detailed chronology that addresses this very issue, I think it is critical that both the Subcommittee and the public understand the significant distinctions between the 1981 activity and the 1985 activity. In 1981, Golden Pacific was issuing certain non-negotiable certificates, pooling these funds and investing them in its own Bankers' Acceptances. OCC examiners criticized the bank for its failure to characterize these certificates as creating a deposit relationship with the customer and also criticized the bank for its failure to properly account for these deposits in accordance with certain Federal Reserve regulations. At that time, there was never any question that the bank was engaged in such activity nor that the OCC viewed these transactions as deposits and consequently liabilities of the bank. In sharp contrast, however, the activity discovered in 1985 involved non-negotiable certificates that were not reflected on the bank's books and records, which were deliberately concealed from the OCC examiners and which were utilized to fund investments of insiders of the bank and their related interests, possibly to circumvent the restrictions governing insider transactions.

Subsequent to the January 1981 examination, the OCC continued to monitor the bank's condition closely, using frequent examinations of the bank to determine any potential problems. In addition, the OCC carefully monitored the bank's compliance with the Memorandum of Understanding. The OCC's supervisory approach also included a commitment to assist the U.S. Attorney's Office in the handling of the 1981 criminal referral.

Subsequent examinations revealed that Golden Pacific had taken certain corrective actions to address previously cited deficiencies, especially in the lending area. However, the bank's anxiety for growth, dominant management and its lack of management succession remained the primary concerns of the OCC. The bank's earnings performance and capital adequacy represented additional areas of concern. However, a fair earnings performance since 1981 coupled with periodic equity injections augmented Golden Pacific's capital base. It is imperative to note, however, that these findings were based upon the bank's condition as represented in official call reports and through the records and information provided to OCC examiners. Based upon facts known and information provided, the solvency of the institution had never been in question until the information relative to the off-balance sheet activity was brought to the OCC's attention in May of 1985.

The 1981 Criminal Referral

As previously mentioned, the OCC conducted an in-depth investigation of certain alleged irregularities in the bank in 1981. As a result of this investigation, the OCC forwarded a criminal referral to the United States Attorney's Office for the Southern District of New York. This referral provided information relative to potential violations of 18 U.S.C. 1001, false statements to an agency of the United States; 18 U.S.C. 1005, false entries on the books of the bank; 18 U.S.C. 1014, false loan applications; 18 U.S.C. 656, misapplication of bank funds; and 15 U.S.C. 70(a)(j), use of a manipulative and deceptive device in the sale of securities.

Subsequent to the submission of this criminal referral, the OCC received a grand jury subpoena requiring the production of certain documents obtained during our investigation in 1981. Thereafter, the OCC arranged for the examiner who conducted the investigation to meet with representatives of the United States Attorney's Office and the F.B.I. to discuss the scope of his investigation and findings. Several other subpoenas were received by the OCC and each time the OCC provided the documents requested and provided the assistance of OCC examiners in explaining the significance of such documentation.

Throughout this time period, the OCC's New York District Office was in regular communication with the Assistant United States Attorney who was handling the case. Several meetings were held concerning the scope of the investigation as well as the production of documents and examiner assistance. In fact, during the summer of 1984, the examiner originally responsible for the investigation was authorized to work as an agent of the grand jury for a two month period. The examiner assisted the Assistant United States Attorney in the preparation of her case and participated in meetings between the targets of the referral and the United States Attorney's Office. Subsequent to the examiner's assignment to the grand jury in the summer of 1984, the examiner was contacted by the Assistant United States Attorney who advised him that the criminal investigation would probably be dropped. The OCC recently learned that the United States Attorney's Office notified the Federal Reserve Board that the investigation had been closed in October 1984.

Conclusion

I hope that my testimony has provided insight into the reasons why the OCC, in fulfillment of its statutory mandate, declared Golden Pacific National Bank insolvent on June 21, 1985. I am confident that the members of the Subcommittee share our concern for the serious breach of public trust which caused the bank's insolvency. I am also sure that the Subcommittee joins me in expressing my appreciation to the employees of the OCC, as well as those of the other banking agencies, for their efforts in responding to this situation under extremely difficult circumstances and time pressures. The OCC stands ready to provide any additional information that may be needed to complete your inquiry into this matter.

THE GOLDEN PACIFIC NATIONAL BANK
NEW YORK, NEW YORK

CHRONOLOGY OF EVENTS LEADING TO THE CLOSING OF GOLDEN PACIFIC NATIONAL BANK

1) On May 16, 1985 a meeting was held in the New York District Office with a confidential informant who provided specific details regarding questionable practices at the bank involving issuance of certain non-booked certificates of deposit ("yellow CD's"). At that time, the informant advised the OCC that the bank concealed the existence of these CD's at each scheduled examination. Based on this information, the OCC concluded that a surprise examination, started without the knowledge of the bank, would be necessary to determine the validity of the informant's allegations. In light of the reliability and significance of this information, the Director for Bank Supervision in the Northeastern District Office notified the New York office of the FDIC on May 16 and the Federal Reserve Board of New York on May 17. In addition, the U.S. Attorney's Office was also notified and encouraged to commence its own investigation (see separate chronology). When the U.S. Attorney's Office declined to launch an investigation, the OCC proceeded with its own plans to conduct a surprise examination (joint with the FDIC) of the Bank and its Loan Production Offices (LPO's) to commence on Monday, June 17, 1985. A pre-exam meeting (including the FDIC) was held in the

N.E. District Office on the morning of June 17. A package of pertinent information was distributed to the examiners, and the strategy was set: verify assets and liabilities. Because the information provided suggested possible fraud on the part of bank insiders, the examiners were armed with administrative subpoenas for bank records and any information relating to "yellow CD's." While subpoenas were served in each of the LPO's, they were not utilized at the main bank since bank management cooperated with OCC requests for various documents and records. However, bank counsel strongly objected to the surprise examination and questioned OCC's authority to demand access to the requested information.

2) At the main office, the examiners obtained access to a manual accounting system for the non-booked certificates (or "yellow CDs") located and maintained in the office of VP/Cashier Theresa Shieh on the 4th floor of the bank. Several examiners, including the FDIC examiner, reviewed the small index cards which represented the bank's manual accounting system. Based on this preliminary control run, it was estimated by the examiners that $30 million existed in these non-booked "yellow CD's". On Tuesday, June 18, the examiners requested and were given access to the actual "yellow CD's", which bank personnel (under examiner supervision) then matched to the index cards. It was found that many of the cards and/or

the certificates had not been pulled out upon payment. The card file system was an extremely poor and burdensome system with which to work; however, bank personnel, working under examiner scrutiny were able to subsequently verify roughly $15.7 million of outstanding "yellow CD's" as of April 30, 1985. Subsequently, an attempt was also made by Ms. Shieh, under examiner supervision, to reconcile the account balance as of June 14 for "yellow CD's" issued or redeemed after April 30. This was never fully completed as Ms. Shieh became involved with managing a liquidity crisis that developed on June 21 which included attempting to establish a borrowing line with a correspondent bank or FRB, and meeting with examiners for various reasons.

3) Each "yellow CD" was labeled as a "Non-Negotiable Certificate" and, except as indicated below, appeared to be similar in all pertinent respects to the banks's standard "blue" CDs. Both versions were issued with fixed maturity dates and fixed rates of return. Each "yellow CD" however, contained the statement "This certificate is subject to the terms and conditions described in the agreement between the above named customer and the bank dated _____________, 19___ ." This Agreement was purportedly given to each customer, but not one signed copy was found. On Thursday, June 20, the examiners were provided with one blank copy of this "Agreement"

at the main office. In addition, all of the "yellow CD's" were unsigned by bank customers and some blank "yellow CD's" were stamped with the phrase:

> "Funds held by bank are not deposits. Therefore are not insured by the FDIC."

During the examination, the examiners were also able to determine that the bank followed the practice of redeeming the "yellow CD's" out of bank funds, the same as its regular "blue" CD's -- upon demand or at maturity. The examiners also determined that as of June 20, payment of "yellow CD's" had resulted in a $1.8 million overdraft on an account purportedly set up to channel funds generated by the "yellow CD's."

4) On Monday, June 17, Chairman of the Board Chuang claimed to the examiners that "yellow CD" funds were being pooled for customers until enough funds were accumulated to purchase Bankers Acceptances which would provide customers with a better rate of return. (See separate chronology on bank's previously criticized practice of purchasing its own Bankers Acceptances on behalf of bank customers). When asked if any other investments were held, Chuang responded he didn't know and stated that the examiners should ask Theresa Shieh for such information.

5) As the evidence of the existence of these non-booked liabilities was discovered, this information was relayed by the District to the Washington Special Projects Division. Washington FDIC was also notified on June 18 that OCC had critical concerns regarding 1) the possibility of a liquidity crisis and run on the bank if adverse publicity resulted; 2) the possibility of a book insolvency if the $15.7 million in liabilities were not backed by valid bankable assets; and 3) a strong suspicion of fraud perpetrated by senior management, the extent of which was unknown.

6) An examiner from the Federal Reserve Bank of New York briefly visited OCC examiners at the bank on Wednesday, June 19. (A one bank holding company had been formed in January 1985.) Later that day, the Fed examiner reported a determination had been made that a full time FRB examiner presence would be unnecessary provided the OCC maintained open communications with the FRB. The same FRB representative later returned to the bank on Friday, June 21. At that time, this examiner functioned more as an observer and did not become involved in the actual exam procedures.

7) Concurrent examinations of the bank's five Loan Production Offices, which also commenced on June 17, revealed that the LPO's were accepting deposits. While the type of

deposits and amounts were unknown at this time, it was found that cash estimated between $50-70 thousand was held at the Houston LPO. It was subsequently determined that all of the LPO's had in fact solicted and accepted deposits. Further, it was suspected that some or all of the LPO's were also issuing "yellow CD's".

8) Throughout the examination of the bank, the examiners persistently queried bank officials as to what bank assets were acquired with "yellow CD" funds. The existence of any such assets was neither acknowledged nor any supporting documentation produced. On Friday morning, June 21, VP and Cashier Teresa Shieh told the examiners that there were several assets held which were unbooked and which were not in the bank's name. Although the examiners made demands for records to support this statment, no records of these assets were presented to the examiners at the bank. According to Ms. Shieh, the unbooked assets were purported to include investment in:

- a realty firm holding title to the bank's main office
- a corporation with overseas investments
- Bankers Acceptances
- a realty firm involved in construction activities
- subject bank's 1983 stock issuance

9) On Friday morning June 21, discussions were held among the Washington Special Projects and Enforcement & Compliance Division and the District regarding the issuance of a Temporary Order to Cease and Desist (TC&D). At this point in time, concern centered around putting a stop to the issuance of "yellow CD's" and apparent abusive practices in the Bank's LPO's. Failure of the bank was not then considered imminent as the examiners were still in the process of ascertaining the extent of unbooked liabilities and assets. The TC&D was designed to:

- stop the soliciting/accepting of deposits by the LPO's
- stop the accepting of any deposits that were not properly accounted for on the bank's books
- cease withdrawals of funds from the various bank controlled accounts
- address immediate liquidity concerns to include the establishment and maintenance of a borrowing facility at the Federal Reserve Bank discount window and correspondent banks

- provide documentation of the non-booked assets purported to be held

The immediate suspension of Chuang and Shieh were also considered.

10) An emergency meeting was called in the Washington Office at 2:30 P.M. on Friday, June 21 in order to consider issuance of the TC&D. At 2:45, the meeting was interrupted when it was learned that Friday afternoon newspaper articles had just been released in at least two Chinese newspapers which referred to problems at the bank. Consequently, a run had started on the bank. At this time, a meeting was ongoing in the New York District Office with FED and FDIC to update these agencies as to the current findings of the examiner to date. All appropriate parties (including the FDIC and FRB) were immediately contacted in order to prepare for a possible failure due to the bank's inability to meet depositor demands. The special meeting was suspended at that point and all efforts were focused on the developing run on the bank which threatened the bank's viability.

11) The bank's regular Friday banking hours were until 6:00 P.M. and it became questionable whether the bank had sufficient cash to withstand depositor demands/withdrawals.

The bank was instructed to establish funding lines to ensure sufficient supplies of cash to meet depositors' demands. The New York FRB was viewed as the most likely source, however, the bank did not have a line established with FRB.

12) In anticipation of the potential closing of the bank, consideration was given to the two foreign representative offices of the bank. OCC sent telegrams to supervisory officials of these offices alerting them that the OCC might move to close the bank because of liquidity pressures.

13) At 5:00 P.M., OCC examiners reported that long lines had formed at the various bank offices, and that two of the three branches had run out of cash and were giving out cashiers' checks or official checks instead. It was further learned that cash reserves at the main bank were down to approximately $400 thousand dollars. The run on the bank appeared to be escalating and a liquidity failure became a strong possibility. Plans to close the bank continued if liquidity demands did not abate.

14) The FDIC, following previous notification, had examiners on standby to enter the branches for closing. An OCC examiner had already been stationed in each branch.

15) At approximately 3:00 P.M., the bank obtained FRB credit for $2 million in Fed funds from another New York bank. The bank obtained cash for these funds which was subsequently delivered via private courier to the bank's main office with the intent to disburse it to the branch offices the next morning before business hours (10-3 on Saturday). Around 6:00 P.M., reports were received from OCC's examiners in the bank's various offices that the run had apparently subsided. At that point, it appeared that the liquidity insolvency had been averted. However, OCC officials continued to harbor serious concerns that the run would reoccur the next day because of adverse publicity and extensive rumors in the Chinese community.

16) During the afternoon, the District and OCC senior management arranged for a conference with COB Joseph Chuang in the N.E. District Office. COB Chuang was requested to provide information and documentation regarding the supporting the non-booked "yellow CD's" and non-booked assets representing the purported investments made with the "yellow CD" funds. At approximately 8:00 P.M. the meeting commenced with Mr. Chuang and his attorneys together with Theresa Shieh and one Board member.

17) At this meeting, documentation purporting to support the existence of non-booked assets was produced by Mr. Chuang for the first time and included the following:

a) Approximately $1 million in Bankers Acceptances;

b) Some examples of notes receivable issued by a realty firm, purportedly corresponding to a like amount of "yellow CD's"; and

c) Documentation in Chinese which was said to evidence the bank's ownership in condominiums located overseas.

However, with the exception of approximately $1 million in Bankers Acceptances, the documentation produced and statements made by bank management and bank counsel were incomplete and inadequate to establish the value of such assets or the bank's interest in these assets, if any.

18) At the meeting, bank counsel argued, that the bank was acting in an agency capacity for its customers in issuing the "yellow CD's", since the "yellow CD's" were purported to be accompanied and governed by a referenced Agreement stating this agency relationship. It was their contention that the CD's did not therefore represent a liability of the bank and were therefore irrelevant to a determination as to the solvency of the bank.

19) The bank's arguments were considered by OCC legal counsel and discussed among senior management in Washington and the District. It was concluded that the bank's arguments were unfounded for the following reasons:

a) There was no matching of the deposit liabilities with a specific investment as would be typical in an agency relationship;

b) There was no matching of maturities of the deposit liabilities and underlying investment as would be typical in an agency relationship;

c) The interest rate stated on the "yellow CD's" was fixed and guaranteed, (allegedly at a rate higher than the booked "blue CD's") and was not dependent on the level of investment risk associated with investment in purported assets; and

d) The bank honored the "yellow CD's" upon maturity or demand without a corresponding sale or maturity of the purported corresponding investment (asset).

In summary, while the transactions were purported to be agency transactions, the actual manner in which the transactions were conducted did not possess or reflect the usual characteristics of an agency transaction. It was therefore determined by OCC senior management and legal counsel that the "yellow CD's" were not agency transactions but represented liabilities of the bank. Moreover, even if an agency relationship had been intended by the bank and the customer as argued, the Bank had not produced any credible evidence that such Agreements had ever been properly executed by bank customers or affixed to the CD's themselves.

20) Because the bank was unable to produce any tangible records of assets or cash sufficient to cover its unbooked liabilities, the bank was insolvent as bank liabilities exceeded assets. Moreover, there remained a strong likelihood for further depositor runs on the bank the next business day. In view of these considerations, Deputy Comptroller of the Currency Michael Patriarca declared the bank insolvent at 10:20 P.M. on June 21, 1985, and appointed the FDIC as receiver.

21) The main bank and its three branches were immediately turned over to the FDIC. The two LPO's in San Francisco and Los Angeles were also immediately relinquished to the FDIC. Due to the closing time and the location of the other three LPO's they could not be immediately secured, but were entered by the FDIC on the following day, June 22.

GOLDEN PACIFIC NATIONAL BANK
NEW YORK, NEW YORK

CHRONOLOGY OF GOLDEN PACIFIC NATIONAL BANK
1981 Certificate of Deposit Controversy

1) In a memo dated February 17, 1981, from John A. Fleming, Regional International Specialist, to Wallace S. Nathan, Regional Counsel, Fleming describes in detail the controversy that had arisen during the ongoing examination surrounding the accounting treatment of the bank's creation of Bankers Acceptances. In this memo Fleming states that Golden Pacific's management contends that these Acceptances do not create a deposit relationship, "only its liability under Acceptances executed." Based on his review of this matter, Fleming concluded that "the form provided to the customer (non-negotiable certificate) indicates a deposit relationship rather than a fiduciary relationship (i.e. Golden Pacific National Bank acting as an agent for its customers by accepting their funds in acceptances or Fed funds)." */

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*/ In a conversation with Mr. Fleming on July 2, 1985 concerning the background of this memorandum, he advised as follows:

(a) There was never any doubt that the Bankers Acceptances transactions contemplated by the bank were booked transactions.

(b) In his opinion, the only issue to be decided was whether or not these were loans and deposits subject to the requirements of 12 U.S.C. §84, Reg. D and Reg. Q. There was never any discussion as to whether or not these were liabilities of the bank.

2) In the Report of Examination using financial information as of January 19, 1981, the OCC cited the bank in violation of the following laws, rules and regulations:

(a) 12 C.F.R. 204.2 (computation of reserve)

(b) 12 C.F.R. 217.3 (interest on time and savings deposits)

(c) Interpretive Ruling 7.7410 (pledge of bank assets as security for deposits)

(d) 12 U.S.C. §84

The underlying basis for these citations involved the bank's practice of accepting funds from customers through the issuance of non-negotiable certificates, pooling of those funds in a custodial account and purchasing of the bank's own Bankers Acceptances with said funds. The examiners viewed the customers' funds as deposits and therefore liabilities of the bank. Since the bank had failed to properly account for these funds as deposits of the bank, the bank was cited in violation of the above-referenced regulations which govern the bank's handling of such deposits.

3) In a letter dated July 10, 1981, the bank, through its counsel Cadwalader, Wickersham & Taft, disagreed with certain of the violations cited in the Report of Examination dated

January 19, 1981. In this letter, the bank's attorneys related their understanding that "Pursuant to the terms of a written agreement entered into between the bank and its customers, the bank was accepting the funds as an agent for its customers, and that therefore, the investments were not being treated as assets of the bank." The letter went on to state that the bank's attorneys had been "advised by the Legal Division of the Federal Reserve Bank of New York that, under the facts as we understand them, these funds are not 'deposits' and that, accordingly, the bank is not required to maintain reserves against them."

4) On December 4, 1981, the Federal Reserve Bank of New York sent a letter to the bank in which it noted that the Fed had reviewed the OCC's Report of Examination dated January 19, 1981, and expressed concerns that the bank had not "reflected as deposits certain funds that must be reported on your 'Report of Transaction Accounts, Other Deposits and Vault Cash' (Form 2900) as reservable liabilities." The letter requested that the bank "re-examine the matter and submit revised reports by December 14, 1981 for the periods in error."

5) In a letter dated December 8, 1981, the bank through its counsel advised the Federal Reserve Bank of New York that it disagreed with the Fed's conclusion on this matter. Bank

counsel referred to its July 10, 1981 letter to the OCC and reiterated its claim that it had been previously advised by the Legal Division of the Federal Reserve Bank of New York that the funds in question are not "deposits", and that the Bank is not required to maintain reserves against them.

The letter went on to assert that the Comptroller had not offered any argument contrary to bank counsel's July 10th letter, and the latest report of examination, dated June 20, 1981, had not raised this issue.

6) An internal memorandum generated by the Federal Reserve Bank of New York, dated December 22, 1981, details a discussion which took place between that Office and the OCC's New York Regional Office on December 21, 1981, regarding the above-referenced December 8, 1981, letter from Bank counsel. The memo notes that a representative of the OCC's Regional Office took the position that the practice criticized in the January 1981 Report of Examination "was indeed a violation of Reg. D and that this finding was later confirmed at a meeting of the Comptroller's Regional Counsel." The memo goes on to relate the fact that "the violation was not mentioned in a follow-up examination of Golden Pacific was due merely to the fact that there were no acceptances on the books at the time." The memo also states that the OCC representative "flatly denies

the claim made in Mr. Goldberg's letter that the Comptroller's Office has accepted Golden Pacific's arguments regarding the reservability of the acceptances."

The memo concludes by suggesting further investigation by the Fed as to whether or not the Fed's legal counsel had previously approved of the practice as alleged in Bank counsel's letter. This memo was not found in OCC files but was provided by the Fed in July, 1985.

7) A follow-up internal memorandum generated at the Federal Reserve Bank dated December 28, 1981, once again makes note of the differences of opinion between the Bank and the OCC and asks for a report on the matter. The memo suggests that the Fed conduct an internal review to determine what opinions may have been offered in this area by Fed staff and also checking with the Comptroller's staff on the matter. (OCC has not been able to locate any documents which would indicate the nature of any internal inquiries made of Fed Reserve Bank staff.) The OCC did not obtain a copy of this memo until July, 1985.

8) In a letter dated January 12, 1982, the New York Regional Office advised Thomas Pozarek of the Federal Reserve Bank of New York that the OCC had determined "that the form

provided to the customer entitled "non-negotiable certificate" indicates a deposit relationship rather than a fiduciary relationship (i.e. GPNB acting as agent for its customers by investing their funds in acceptances or federal funds). Consequently, the acceptance is discounted, not rediscounted, and therefore a loan. Based on these facts, the examiner cited the violations of 12 U.S.C. §84 and F.R.B. Regulations D and Q.

9) In a letter dated February 18, 1982, the bank through its counsel scheduled an appointment to meet with the Federal Reserve Bank of New York to discuss this matter further.

10) A letter dated March 1, 1982, from Bank Counsel to Dr. Chuang, offers the opinion that funds accepted by the bank from its customers to purchase "eligible acceptances" on their behalf are not "deposits" provided that bank "acts solely as an agent for its customers." Attached to the letter is a document characterized as an "Agreement" which appears to be similar to the form of "Agreement" first produced for OCC consideration on the evening of June 21, 1985. This letter to the bank does not appear in OCC files but was only recently obtained from the Federal Reserve Bank of New York. There is no indication that it was ever copied to the OCC.

11) Another Federal Reserve Bank memorandum dated March 9, 1982, purports to detail a meeting at the New York Federal Reserve Bank with Dr. Chuang and his counsel on March 2, 1982. According to the memo, at that meeting, Dr. Chuang represented that the OCC has "withdrawn its criticism" concerning the above-referenced deposit issue. [There is no indication in any OCC files that this was in fact the case. To the contrary, the only recorded information on this point indicates that the criticism had not reappeared simply because the bank had discontinued its practice.]

12) In a letter dated August 3, 1982, from the bank to Thomas Taylor, the bank once again raised the issue of the accounting treatment for the Bankers Acceptance transactions. The bank merely reiterates its previous contention that the matter had been under discussion with the Federal Reserve Bank of New York and that the Fed had determined "that the bank's practices and procedures with regard to the investment issue were absolutely proper and in accordance with applicable laws and regulations."

13) No further documentation has been discovered subsequent to August of 1982 on this matter.

THE GOLDEN PACIFIC NATIONAL BANK
NEW YORK, NEW YORK

CHRONOLOGY OF COMMUNICATIONS WITH THE U.S. ATTORNEY'S OFFICE

The following is a summary of the OCC's interaction with the United States Attorney's Office concerning potential criminal violations at the Golden Pacific National Bank, New York, New York.

1) On December 8, 1981, the New York Regional Office forwarded a criminal referral to the U.S. Attorney's Office for the Southern District of New York. This referral was made pursuant to the results of an OCC investigation conducted in January and February of 1981. This investigation was commenced after certain individuals had come forward with allegations of misconduct involving certain bank insiders. The 1981 criminal referral provided information relative to potential violations of 18 U.S.C. §1001, false statements made to an agency of the United States; 18 U.S.C. §1005, false entries on the books of the Bank; 18 U.S.C. §1014, false loan applications; 18 U.S.C. §656, misapplication of bank funds; and 15 U.S.C. §78j, use of an manipulative and deceptive device in the sale of securities. Information was also referred relative to a potential check-kiting scheme involving violations of 18 U.S.C. §1341 and 18 U.S.C. §1343. OCC records indicate that some

supporting documentation, within the limits prescribed by the Right to Financial Privacy Act, was provided to the U.S. Attorney along with the referral.

2) In December, 1982, the New York Regional Office received a grand jury subpoena dated December 17, 1982 for the Report of Examination prepared by the OCC in 1982. In response to this subpoena, Regional Counsel informed the Assistant U.S. Attorney (AUSA) that the scope of the subpoena was not broad enough to cover reports of examination and other materials relevant to the allegations in the OCC's 1981 referral. Regional Counsel suggested to the AUSA that the scope be broadened to include a request for all such documents. The OCC responded to this subpoena on January 24, 1983.

3) During the first week of May, 1983, the New York Regional Office and the AUSA had a discussion relative to the scope of a new grand jury subpoena dated May 2, 1983. Pursuant to this subpoena, the National Bank Examiner who had been involved in making the original referral to the District Office was authorized by letter dated May 19, 1983 to meet with the AUSA and agents of the grand jury to turn over documents and to assist in explaining the significance of the materials in question. Thereafter, the examiner arranged to meet with a representative of the FBI.

4) The examiner met with a representative of the FBI on June 2, 1983 and provided significant background data as well as the underlying documentation providing the support for the criminal referral. The meeting lasted for approximately two hours and OCC offered its continuing support. As a follow-up to this meeting, the OCC submitted additional documentation through a transmittal letter dated July 6, 1983.

5) On September 27, 1983, a meeting was held between the examiner and the AUSA to discuss the 1981 criminal referral. In a memo dated September 30, 1983, the examiner states "the purpose of the meeting was to assist in the familiarization of specific underlying data arising from the criminal referral." At the meeting, the examiner outlined the specific transactions involved in the referral and again emphasized the OCC's continuing support and cooperation with the U.S. Attorney's office in this matter.

6) On approximately October 26, 1983, the examiner was contacted in Oklahoma (where he had been temporarily assigned to assist the Southwest District) by the AUSA as a follow-up to the criminal referral. In a memo summarizing the contents of this discussion, the examiner indicated that the AUSA passed on comments relating to discussions with other individuals and also informed the examiner of some new allegations. This was

the first time the examiner had been made aware of these new allegations and he informed the AUSA that his earlier investigation had not turned up evidence to corroborate the new evidence recently made available to the AUSA.

The examiner advised the AUSA that he would continue to be available to assist in any way. The examiner subsequently called the New York Regional Office to advise that office of the information presented by AUSA.

7) On December 8, 1983, the AUSA came to the New York Regional Office to discuss her ongoing investigation of the Bank. In a summary memo dated December 15, 1983, the AUSA reported on the status of the previously referred matters and again discussed allegations which went beyond the initial referral. No documentation or sources of information were provided to corroborate these new allegations. The AUSA also indicated her intent to continue the investigation.

8) On December 14, 1983, the United States Attorney served the OCC with another grand jury subpoena covering additional records generated by the OCC since the production of the May 2, 1983 subpoena. All of these materials related to the OCC's criminal referral made in December of 1981. The OCC responded to this subpoena on December 29, 1983.

9) On January 18, 1984, as part of the Barnard Committee's inquiry into the bank regulatory agencies and law enforcement response to bank fraud, the OCC was asked to produce documents and information relative to the December, 1981 criminal referral. By letter dated February 13, 1984, the OCC provided information relative to this matter to the Committee. Thereafter, in a follow-up letter dated July 26, 1984, the OCC advised the Committee that the OCC's New York Office had encouraged the U.S. Attorney's Office to move expeditiously in this matter on a number of occasions. The Department of Justice advised the same Committee on January 5, 1984 and July 20, 1984, that the matter was still under review and no prosecutive opinion had yet been rendered.

10) Thereafter, the AUSA contacted the examiner for purposes of following up on the 1981 criminal referral. The examiner was asked to come to the U.S. Attorney's Office to assist in her preparation of the case.

11) During the summer of 1984, the examiner spent approximately two months reviewing documents and drafting questions to be used before the grand jury. In a letter dated September 19, 1984, the U.S. Attorney's Office requested that the examiner be designated as an agent of the grand jury. By letter dated September 20, 1984, the examiner was authorized by OCC's Regional Counsel to serve as an agent of the grand jury. At this time, the examiner participated in meetings between the

U.S. Attorney's Office and the bank officers. During this period, the focus of the examiner's work with the AUSA centered on three components of the original 1981 referral and was not directed towards any allegations outside of that referral. Subsequent to this work with the U.S. Attorney's Office, the examiner was contacted by the AUSA who indicated that the 1981 referral would probably be dropped. [In preparing its Report for this Committee, OCC only recently learned that in response to inquiries from the Federal Reserve Board to undertake an assessment of a bank-holding company application, the U.S. Attorney formally notified the Federal Reserve Board that the criminal investigation had been dropped in October of 1984. OCC has never been formally advised that the investigation was dropped.]

12) Upon being notified by an informant in May, 1985, of alleged irregularities regarding the bank's issuance of certain certificates of deposit, a staff attorney of the Enforcement & Compliance Division of OCC's Washington Office contacted the U.S. Attorney's office to ascertain the status of the 1981 criminal referral. The staff attorney learned that the AUSA who was handling the case was no longer with the U.S. Attorney's office. He was unable to determine who was currently handling the case and was advised that there was no current case pending and was directed to another AUSA for further discussions. This AUSA advised the staff attorney that

the OCC criminal referral had apparently "fallen through the cracks."

13) Since May of 1985, OCC attorneys have had numerous conversations with the U.S. Attorney's Office regarding the allegations made by the informant and the appropriate response from both the bank supervisory agencies and the law enforcement community. Pursuant to OCC's invitation, the AUSA attended a meeting with the informant at OCC's New York Office on May 29, ✓ 1985, during which the informant provided a detailed account as to the alleged irregularities. The informant also produced certain documentation at that time. It was our hope that based on this information, the U.S. Attorney's Office would be willing to issue search warrants or commence an investigation on its own to uncover additional documentation supporting the irregularities alleged by the informant. The OCC was also able to provide the AUSA with a name of another individual who had first-hand information as to the bank's issuance of certificates of deposit and at one point advised the AUSA that this individual would be leaving the country shortly and would have to be talked to as soon as possible or be unavailable for the next month. The issue of immunity for this individual was also discussed. The AUSA felt that the matter could be more appropriately handled by OCC's examiners through the surprise examination that was being developed in the District Office. OCC has reason to believe that the AUSA detemined not to meet with the second informant. Moreover, OCC has no knowledge that

grand jury subpoenas or search warrants for underlying documentation were ever issued. OCC concerns with this matter were also discussed with the Department of Justice.

14) Throughout the months of May and June, the OCC continued to coordinate its examination process with the U.S. Attorney's Office. In view of the decision of the U.S. Attorney's Office not to issue search warrants or subpoenas or begin a formal investigation, the OCC commenced "a surprise examination" at the bank and its five loan production offices. Prior to the examination, the OCC provided its examiners with administrative subpoenas covering relevant documents. The examination of the bank commenced on June 17 at 1:00 p.m. and was coordinated with concurrent examination of the bank's five loan production offices in Boston, Houston, San Fransico, Los Angeles and Chicago. At all times during this examination, the Assistant U.S. Attorney was informed of the procedures being utilized by the OCC and the developments to date.

15) On Wednesday, June 19, 1985, an E&C staff attorney contacted the AUSA for purposes of advising him that the examination had been progressing well and that examiners had uncovered significant information substantiating many of the allegations disclosed by the informant at the previous meeting. The AUSA responded that he felt that it was

appropriate that the OCC continue its process absent any formal law enforcement support at that time.

16) On Friday, June 21, 1985, a Washington staff attorney contacted the AUSA on several occasions to discuss the serious nature of the information being uncovered and the high probability that the OCC might close the bank that afternoon. That same day, the Director of the OCC's Enforcement & Compliance Division in Washington, also expressed concerns to the AUSA that certain individuals involved in these transactions should be immediately contacted by the U.S. Attorney's Office to ensure the integrity of their information and also to make sure that they did not disappear in light of the information turned over to the examiners. At approximately 10:30 p.m. on June 21, 1985, the AUSA was advised that the Comptroller had declared the bank insolvent, that the bank had been turned over to the FDIC as receiver and that the OCC's involvement, in terms of the production of documents and assistance of witnesses, might be limited by the FDIC's presence in the bank. A Washington staff attorney arranged for the AUSA to meet with OCC examiners in New York on Saturday, June 22, 1985, to discuss their findings.

17) Since the closing of the institution, OCC Washington and District personnel have remained in close contact with the

AUSA advising him of the status of our findings, the availability of OCC examiners, and the availability of OCC workpapers and documents.

18) On Friday, June 28, 1985, a Washington staff attorney was contacted by another AUSA from the Southern District and advised that the case had been reassigned to him. The new AUSA was briefed on our efforts to date.

Chairman St Germain. The Chair would note for the record that we have five members present, indicating a quorum for the purpose of taking testimony and holding an investigatory hearing.

Mr. Selby, what has intrigued me since we first began looking at this is the fact that in 1980-81 these certificates were criticised by the OCC and also by the Fed. There was a question as to whether or not reserves had to be held against these. I think they were originally invested in Bankers' Acceptances.

The Fed came down with a ruling and subequently, all references to these certificates seem to have disappeared. My question is did anyone from the OCC, in their examination process—and certainly you were on notice that this bank was not the best run bank in the country—inquire as to what happened to these certificates? Were they replaced by anything else? Were they changed in any shape, manner or fashion?

Mr. Patriarca. Mr. Chairman.

Chairman St Germain. Mr. Patriarca, tell us what your function is.

Mr. Patriarca. Mr. Chairman, I, for an interim period, am serving as the person in charge of bank supervision at the Comptroller's office. My regular job is Deputy Comptroller for Multinational Banking.

Chairman St Germain. For multinational banking?

Mr. Patriarca. Yes.

Chairman St Germain. Is Golden Pacific considered a multinational bank?

Mr. Patriarca. Thankfully no, Mr. Chairman.

Chairman St Germain. OK.

Mr. Patriarca. There was a meeting between the bank officials and attorneys with the Federal Reserve staff in March of 1982 to discuss the Fed's position with respect to the applicability of regulation D and Q in the case of the nonnegotiable certificate activity in 1981. Memos of that meeting indicate that the activity at the bank had ceased, and that activity where the certificates were pooled and used to fund Bankers' Acceptances, was not noted in subsequent examinations. The bank in essence said that they were done with it, and it vanished as a practice.

Chairman St Germain. On page 4 of the testimony, you comment:

> During the examination the examiners were able to establish the existance of yellow nonnegotiable certificates which were not reflected on the bank's books and records. Therefore, the examiners determined approximately $15,700,00 of such certificates were outstanding as of April 30, 1985.
>
> The examiners were able to establish both the existence of these certificates and the outstanding amount through a review of certain bank records which had never before been available to OCC personnel prior to this unannounced examination.
>
> It became clear the bank had accumulated significant liabilities through the acceptance of the yellow certificates. It became critical that the examiners verify whether such liabilities were backed by valid bankable assets. On a number of occasions the examiners requested from bank's senior management—

Who was bank's senior management from which this was requested?

Mr. Selby. I think it was the chairman of the board.

Chairman St Germain. Rather than think, Mr. Selby, can we be specific? Do we have anyone here who can answer that question?

Mr. **Selby**. It was Mr. Chuang and Ms. Shieh.

Chairman **St Germain**. That is bank's management, isn't it?

Mr. **Selby**. That is the bank's management.

Chairman **St Germain**. It was bank's management in 1980; correct? It was bank's management in 1981, and it has been bank's management ever since.

Mr. **Selby**. I believe that is——

Chairman **St Germain**. Throughout.

Mr. **Selby**. That was it.

Chairman **St Germain**. It was bank's management when the criminal referral was made in 1980-81; was it not?

Mr. **Selby**. That is correct.

Chairman **St Germain**. Therefore, you don't have to be brilliant to conclude that the referrals had reference to Mr. Chuang and—whatever her name is. What is her name?

Mr. **Selby**. Shieh.

Chairman **St Germain**. Is that not correct?

Mr. **Selby**. The referral did make reference to certain insider transactions involving Mr. Chuang. I don't know if Ms. Shieh was referenced in it or not.

Chairman **St Germain**. Let's put it this way. It couldn't go beyond those two, because they were the two honchos. They were running the bank.

Mr. **Selby**. It could have involved any number of officers or employees of the bank.

Chairman **St Germain**. But Mr. Selby, your own reports constantly state that one of the big problems with this bank is that there was no management succession.

Mr. **Selby**. That is right.

Chairman **St Germain**. Mr. Chuang, period.

Mr. **Selby**. That is correct.

Chairman **St Germain**. OK. Please, this morning, as you testify, don't give us the balderdash. Just give us the facts.

Mr. **Selby**. I thought that was what I was doing, Mr. Chairman.

Chairman **St Germain**. Yes, but don't fluff it off. There could have been other bank officers. If there were, name them.

Mr. **Selby**. I know that the criminal referral involved Chairman Chuang. I don't personally know who else it involved, but maybe someone here does. All I am saying is that the criminal referral could have involved any number of people.

Chairman **St Germain**. OK. Now, you say here that "The examiners were able to establish the existence of the certificates in the outstanding amount through a review of certain bank records never before available to OCC personnel prior to this unannounced examination."

What happened to those? How come they never saw them before this unannounced examination?

Mr. **Selby**. Because the records were hidden from our examiners at all previous examinations of the bank. As a result, we had no knowledge that they existed.

Chairman **St Germain**. Is there anyone here who can tell——

Mr. **Selby**. In the June 1985 examination, we were able to find them because an informant told us where to look.

Chairman **St Germain**. Who was there at that examination?

Who headed up that examination?

Mr. **Selby**. Mr. White.

Chairman **St Germain**. Mr. White, would you approach the table, please, and join this fireside chat?

Mr. White, I will read again from Mr. Selby's statement. "The examiners"—I assume that is yourself and your colleagues that were in the bank; right?

Mr. **White**. Yes, sir.

Chairman **St Germain**. "The examiners were able to establish both the existence of the certificates in the outstanding amount through a review of"—and now the following words are important—"certain bank records." Their bank records, according to this statement of Mr. Selby, "which had never before been available to OCC." Tell me about that.

Mr. **White**. The records consisted of a book that we had never been provided previously.

Chairman **St Germain**. What type of a book was it?

Mr. **White**. It was a black looseleaf ledger.

Chairman **St Germain**. What was contained in the ledger?

Mr. **White**. The various subject accounts.

Chairman **St Germain**. The pink copies of the yellow certificates?

Mr. **White**. No, sir.

Chairman **St Germain**. Where were they found?

Mr. **White**. They were found in Ms. Shieh's office.

Chairman **St Germain**. Where in Ms. Shieh's office?

Mr. **White**. I was not present when they were initially discovered in her office.

Chairman **St Germain**. Is anyone here from your office who was present at the time they were discovered or were they discovered by the OCC or the FDIC?

Mr. **White**. By the OCC and FDIC together.

Chairman **St Germain**. On what date were they discovered?

Mr. **White**. Mr. Langdon from our office and Mr. McAvoy from FDIC worked with Ms. Shieh on this matter. They initially discovered accrual cards on Monday. On Tuesday they——

Chairman **St Germain**. Monday what?

Mr. **White**. Monday, the 17th. On Tuesday, they were provided copies of the yellow certificates, which I think were pink.

Chairman **St Germain**. Now, do you know where this black ledger was kept prior to the date of the surprise examination?

Mr. **White**. No, sir.

Chairman **St Germain**. Once this ledger was found, whom did you question about it?

Mr. **White**. First of all——

Chairman **St Germain**. Don't tell me certain bank officers, please.

Mr. **White**. First of all, let me clarify something. It was not found. It was provided to me on Friday, the 21st, by Ms. Shieh while she was making a statement.

Chairman **St Germain**. Would you describe that in detail?

Mr. **White**. The statement that she made?

Chairman **St Germain**. Yes. You said you were in there on the 17th.

Mr. WHITE. We commenced on the 17th.

Chairman ST GERMAIN. Right.

Mr. WHITE. Which was a Monday. Friday morning, she left several messages for me to meet with her, which I did, and she made her statement at that meeting.

Chairman ST GERMAIN. The statement was?

Mr. WHITE. You want me to go into full detail?

Chairman ST GERMAIN. Yes, sir.

Mr. WHITE. She started by stating that what she had done was the worst thing she had ever done in her life and that she had not realized any material or monetary gain from these transactions. She described her clothing to me as examples of her modest way of life. After that, she described the certificates. She acknowledged that they were not on the balance sheet and had not been on the balance sheet for some time.

Mr. KEENEY. Mr. Chairman, may I be recognized?

My name is John Keeney. I am the Deputy Assistant Attorney General in the Criminal Division.

What you are asking this gentleman now are details with respect to an ongoing criminal investigation. You are interfering with that criminal investigation, sir, and I respectfully and officially request that you terminate this line of questioning.

Chairman ST GERMAIN. Would you repeat that with the microphone on?

Mr. KEENEY. Yes, Mr. Chairman. I appreciate your allowing me to interject here.

The line of questioning you are going into, Mr. Chairman, is directly related to an ongoing investigation. You are interrogating this gentleman with respect to statements made by a suspect in a criminal investigation, and as a representative of the Department of Justice, I must respectfully request that you not continue this.

You are making it more difficult for us to continue a criminal investigation and to successfully prosecute, in the event that we find sufficient evidence.

Now, I have asked to meet with the committee previously to ask that they not go into this. I was not given the opportunity, and I regret that I have to make the request publicly, but I would be violating my responsibilities if I did not do so.

Chairman ST GERMAIN. Thank you.

Mr. BARNARD. Mr. Chairman, will you yield?

Could you ask Mr. Keeney have there been any charges made against any of these officers or directors of this bank?

Mr. KEENEY. Mr. Barnard, there are no charges, but the investigation is ongoing. It is a very active investigation, and as has been demonstrated by this hearing, there are serious criminal allegations.

Chairman ST GERMAIN. Mr. Keeney, in your testimony that you will present subsequently, you reviewed the previous criminal referral.

And it took you 5—4 years to determine that the charges were de minimus?

Mr. KEENEY. Not quite that long, but it wasn't done with dispatch.

Chairman ST GERMAIN. 1981 to October 1984.

Mr. KEENEY. It wasn't done with dispatch. I will concede that, Mr. Chairman.

Chairman ST GERMAIN. Dispatch? By God, it was the turtle, the tortoise and the hare.

Mr. KEENEY. I am not going to defend the speed with which it was handled, Mr. Chairman.

Chairman ST GERMAIN. My point is this. As I demonstrated earlier with Mr. Selby, you don't have a new case. You don't have anything new here, Mr. Keeney. You have got the same characters.

Mr. KEENEY. Absolutely.

Chairman ST GERMAIN. The same bank.

Mr. KEENEY. Absolutely.

Chairman ST GERMAIN. What you had here previously were allegations which I set forth in my statement. Now you are dealing primarily with the issue of yellow certificates which, as the Comptroller has testified, they became aware of in early 1985. It is the same cast of characters, but it is an entirely different scenario.

Mr. BARNARD. The same crime, though, Mr. Chairman, regardless of the scenario, the crimes, the criminal actions are somewhat consistent. Mr. Keeney, my recollection of this case, if it is at all accurate, I believe that the first criminal misconduct had to do with the officers of this bank involved in expense of payroll disbursements to insiders, preferential loans to insiders based on false documentation, and irregularities in securities transactions.

Mr. KEENEY. Yes, sir.

Mr. BARNARD. That is just as serious as what they have done here.

Mr. KEENEY. There is no question about it that the original allegations related to insider dealing, and we looked at those, but the matter changed dramatically when the yellow certificates came to light.

Mr. BARNARD. Mr. Chairman, I can certainly sympathize with Mr. Keeney in the direction of his testimony, and I am sure that we will get involved with his testimony at a later time, so I won't pursue the point, but it has to be very interesting that we haven't had any prosecutions in this bank, with all of these series of criminal conduct, for 5 years.

Chairman ST GERMAIN. The bank is now closed. There has been a lot of publicity on it. The publicity centered on the fact that there was a criminal referral in 1980-81 that bounced around and got pushed around the desk here and there, helter-skelter, for a period of time.

We had a request for a gentleman from OCC to be assigned to the Justice Department. They never made use of—and I can understand why Justice has decided now, "Well, we are going to be very, very, very thorough in this instance."

Mr. Keeney, you are excused for now.

Mr. KEENEY. Thank you, Mr. Chairman.

Chairman ST GERMAIN. Mr. White, you had an extensive conversation with Ms. Shieh?

Mr. WHITE. Yes.

Chairman ST GERMAIN. As a result thereof, and I can't see how this interferes with the criminal investigation—as a result thereof, she produced for you the ledger. Wasn't it she who told you where the ledger was produced?

Mr. WHITE. Yes.

Chairman ST GERMAIN. As well as the accrual cards or the pink sheets?

Mr. WHITE. No, sir. Those were produced on Monday.

Chairman ST GERMAIN. They were produced subsequently?

Mr. WHITE. No. The accrual cards were produced on Monday. My discussion with her was the following Friday.

Chairman ST GERMAIN. The following Friday?

Mr. WHITE. Yes.

Chairman ST GERMAIN. When were the pink sheets located?

Mr. WHITE. On Tuesday.

Chairman ST GERMAIN. The following Tuesday?

Mr. WHITE. No. The 18th.

Chairman ST GERMAIN. The 18th? On the 18th. Now, you then spoke with Mr. Chuang, I would assume, about these yellow certificates.

Mr. WHITE. We really didn't discuss the yellow certificates very much with Dr. Chuang. At the opening interview, we initially requested all certificates of deposit.

Chairman ST GERMAIN. Right. At that point did you receive the yellow certificates?

Mr. WHITE. No, sir.

Chairman ST GERMAIN. You got those on the 17th or 18th?

Mr. WHITE. Yes.

Chairman ST GERMAIN. Whom did you ask about what assets had been purchased or what had been done with the proceeds from the yellow certificates?

Mr. WHITE. Our strategy was not to ask for the assets right away. We wanted to know what the liabilities were, so that question was not directed to management until Tuesday afternoon.

Chairman ST GERMAIN. After you totaled up the liabilities?

Mr. WHITE. After we had at least a rough idea what they were.

Chairman ST GERMAIN. Now, tell us about that.

Mr. WHITE. We got no responses.

Chairman ST GERMAIN. As to where those assets were?

Mr. WHITE. Correct. We were told initially on Tuesday——

Chairman ST GERMAIN. You sound like the Justice Department or the State Police now. Don't tell me "We were told". I want you to say that Joe Selby told you or Mr. Patriarca told you.

Mr. WHITE. Theresa Shieh told us that some documentation was en route from Taiwan to document one of the investments. It never arrived, in fact. We never saw it.

Chairman ST GERMAIN. It still isn't here.

Mr. WHITE. I have no knowledge of where it is.

Chairman ST GERMAIN. Would you continue? There has got to be more than this.

Mr. WHITE. To her statement?

Chairman ST GERMAIN. No, no. Now we are looking for the assets. You are searching for the assets, are you not?

Mr. WHITE. Yes.

Chairman ST GERMAIN. Or inquiring about the assets.

Mr. WHITE. We received nothing.

Chairman **St Germain**. Weren't there discussions with Mr. Chuang? Didn't Mr. Chuang say that these were not bank liabilities?

Mr. **White**. The assets were asked for repeatedly, but we did not receive them.

Chairman **St Germain**. Asked for whom?

Mr. **White**. Of Theresa Shieh. We also eventually asked Dr. Chuang.

Chairman **St Germain**. Great. I was afraid you would never get to him. Tell me about that.

Mr. **White**. We asked him for them. He directed us——

Chairman **St Germain**. Where was this now?

Mr. **White**. That probably was Wednesday. He directed us back to Theresa Shieh. Since we had not received anything by Thursday night, I talked to Theresa on Thursday night about 7 p.m. and advised her that this was a serious matter, that we had to have these assets, had to get an understanding of what they were. Apparently she reconsidered and decided to disclose them on Friday morning.

Chairman **St Germain**. OK. Did she say what the assets were on Friday morning?

Mr. **White**. The Everyone's International, which was the Regency Hotel. She said they invested $4.4 million in that.

Chairman **St Germain**. Where is that located?

Mr. **White**. In Taipei.

Chairman **St Germain**. Next.

Mr. **White**. Sandpebbles, which was the banking house. The bank's own stock.

Chairman **St Germain**. Stock of the Golden Pacific Bank?

Mr. **White**. Yes, sir. A company called T&C Realty, and——

Chairman **St Germain**. Did T&C Realty have any assets itself?

Mr. **White**. I never saw them.

Chairman **St Germain**. Were there any alleged assets with T&C Realty?

Mr. **White**. Yes, sir.

Chairman **St Germain**. What were the alleged assets?

Mr. **White**. A building.

Chairman **St Germain**. Which building?

Mr. **White**. It was on Hudson Street. I don't recall the exact address.

Chairman **St Germain**. Located close to the Golden Pacific Bank?

Mr. **White**. Yes, sir.

Chairman **St Germain**. In immediate proximity to?

Mr. **White**. I didn't go out and inspect it.

Chairman **St Germain**. Was the address close to the address of the Golden Pacific Bank?

Mr. **White**. I am not sure how far away it is, sir.

Chairman **St Germain**. Does anyone with you know?

Next?

Mr. **White**. The last asset she described was some bankers' acceptances.

Chairman **St Germain**. Was any reference made—but you never saw the bankers' acceptances either. Were any references made to the Golden Pacific Bank Building itself?

Mr. White. Yes, sir. Sandpebbles.

Chairman St Germain. The Sandpebbles of Golden Pacific.

Mr. White. Yes, sir.

Chairman St Germain. Was there a trust alleged at any point?

Mr. White. A custodial account.

Chairman St Germain. Custodial account? In the name of?

Mr. White. Amy Chen.

Chairman St Germain. She is an unknown?

Mr. White. We don't know.

Chairman St Germain. What was in that custodial account?

Mr. White. An overdraft of $1,818,000 on June 20.

Chairman St Germain. All of this you received on Thursday?

Mr. White. Friday the 21st.

Chairman St Germain. Friday the 21st.

Mr. White. Yes, sir.

Chairman St Germain. During the day?

Was that the principal reason for making your decision?

You were the one on the scene who made the decision that the bank should close; right?

Mr. White. No, sir. I did not make the decision.

Chairman St Germain. Well, did you make a recommendation?

Mr. White. Yes, sir.

Chairman St Germain. All right. What motivated, or what were the principal reasons for your recommendation?

Mr. White. First of all, we had approximately $16 million of off-book liabilities. We did not know for sure if we had more. Second, we had assets of unknown value with no documentation, some of which were definitely not in the possession of or owned by the bank. Therefore, it was not possible to assign tangible values to those assets. Adding $16 million to the balance sheet without a corresponding increase on the asset side results in insolvency.

Chairman St Germain. Therefore, in the OCC judgment the amounts represented by the yellow certificates were indeed liabilities of the bank?

Mr. White. I think there was good reason to believe that.

Chairman St Germain. Mr. Selby, you concur in that opinion?

Mr. Selby. Yes.

Chairman St Germain. That these were indeed liabilities of the bank?

Mr. Selby. Yes.

Chairman St Germain. Mr. Wylie.

Mr. Wylie. Thank you, Mr. Chairman.

The yellow certificates of deposit to which you have referred, they were in existence in 1981, is that correct?

Mr. Selby. That is correct.

Mr. Wylie. Now how did the scenario change from 1981 to 1985?

Yesterday there was some testimony that the certificates of 1985 had on them "not insured by FDIC." Is that correct or not?

Mr. Selby. I believe that some of them were stamped very faintly.

Mr. Wylie. Does anybody at the OCC know about that?

Mr. Selby. We don't know if all of them were stamped. There were some copies which had a faint, practically illegible stamp saying that they were not insured by the FDIC.

Mr. **Wylie**. Where did you discover those?

Mr. **Selby**. Those were the ones that Mr. White was referring to. They were discovered during the week of June 17, 1985.

Mr. **Wylie**. That Ms. Shieh had?

Mr. **Selby**. Yes, that Ms. Shieh had. The difference, Mr. Wylie, is that in 1981 the certificates were entered on the bank's books and supported by assets. In 1985 they were not entered on the bank's books nor supported by bank assets.

Mr. **Wylie**. Now, it was suggested a little earlier that Dr. Chuang was the possessor of all of the information with reference to all of these dealings in the bank. Is it fair to say that because of the magnitude of the operation that he had to have some help inside the bank?

Mr. **Selby**. Apparently, as Mr. White said, Ms. Shieh helped him.

Mr. **Wylie**. Do you have any indication that anybody else might have been helping him?

Mr. **Selby**. I don't think we have any evidence.

Mr. **Wylie**. Is it your judgment that it was a two-person operation?

Mr. **Selby**. Apparently, from what we know.

Mr. **Wylie**. I might get into that a little later. But the magnitude of the crookedness seems to show that someone else must have been involved. That is a judgment factor on my part I know, but from your examination you think that two people were conducting this operation all that time?

Mr. **Selby**. That is the only evidence that we have.

Mr. **Wylie**. What was the address of Sandpebbles?

Mr. **Selby**. That is the first I have heard of Sandpebbles. I gather that is the name of the building.

Mr. **White**. 241 Canal Street, sir.

Mr. **Selby**. It is called Sandpebbles?

Mr. **White**. That is the bank's actual banking house.

Mr. **Wylie**. It is the same building?

Mr. **White**. That is correct.

Mr. **Wylie**. Now, Dr. Chuang issued a statement yesterday in which he says that "On June 21, 1985, using the bookkeeping methods that the banking authorities had approved throughout the bank's existence, the bank had a net worth of $9 million."

Would you comment on his statement that the bank, in fact, had a net worth of $9 million all that time. Mr. Selby or Mr. White.

Mr. **Patriarca**. Mr. Wylie, we disagree substantially with that. The accounting methods that were discovered in the 1985 examination were not even in the remotest stretch of anyone's imagination approved by the regulatory agencies. We don't approve of liabilities being hidden from examiners, and things being moved off the balance sheet in deceptive fashion. We think that there was a net worth, but it was a negative net worth on June 21.

Mr. **Wylie**. How negative a net worth?

Mr. **Patriarca**. It was about $6 million in the hole.

Mr. **Wylie**. So you would conclude from your examination that Dr. Chaung's statement is false.

Mr. **Patriarca**. Yes.

Mr. WYLIE. Dr. Chuang also states that during the week of June 17, 1985 "The Comptroller undertook an examination of the bank including a review of the custodial account."

He states that "to our knowledge, the first indication given to the bank that the Comptroller had changed his views as to whether the custodial account constituted a bank liability, occurred during the late afternoon of June 21, 1985."

Was that the first time that your office had knowledge of the custodial account, I take it?

Mr. PATRIARCA. Mr. Wylie, the statement from which you are reading, as well as some statements made in the press by attorneys for the bank subsequent to the closing, appear to be a rather shallow attempt to confuse the issue, to make it seem as though the activities that were criticized by the agency in 1981 were exactly the same activities that were still going on in 1985.

Mr. WYLIE. The activities going on in 1981 were the same as——

Mr. PATRIARCA. That appears to be what the statements on behalf of the bank are attempting to suggest. That is absolutely not the case, however. The activities in 1981 were, in fact, liabilities and assets on the books of the bank, both of which were in plain view. We disagreed with the way the bank was characterizing them for purposes of regulations D and Q, which deal with deposits.

Mr. WYLIE. So what you are saying is that you could not have changed your view as to what the custodial account was, because you didn't know about it?

Mr. PATRIARCA. In 1981 there was an account where the certificate receipts were pooled and invested in bankers' acceptances. To the extent that that is a custodial account, there was one in 1981 that we were aware of. The certificates were on the books of the bank, and there were counterbalancing assets on the books. In 1985, there was an account that was used to funnel funds from the off-book yellow certificates into investments of insiders of the bank. On June 20, that account was overdrawn to the extent of $1.8 million. Clearly, it was not the same practice in the most fundamental sense.

Mr. WYLIE. This is a judgment question for you, and maybe you won't want to answer it, but do you feel that everything was done that should have been done back in 1981 by the U.S. attorney's office to pursue the criminal referral?

Mr. Keeney indicates in his statement that he thought there might have been some deleteriousness in that regard.

What is your feeling about that?

Mr. PATRIARCA. With respect to the role played by the Comptroller's Office, we made a referral. We also provided assistance to the U.S. attorney's office's investigation. We made examiners available, and examiners, in fact, met with representatives of the U.S. attorney's office and served as agents of the grand jury for a couple of months.

Quite frankly, I think that we could have pestered the U.S. attorney's office perhaps more than we pestered them to pursue the referral. Looking at it now, I think we would have been more active in our urgency of the case being moved along. But, I think that our record of cooperation in the handling of the referral is a reasonable one. There was an active investigation on the part of the U.S. attorney's office underway, and we were of the belief that a prosecution would result.

Chairman **St Germain**. What do you mean? I am intrigued. I went to Providence College and Law School. When you use the word "activity" that means, that in my opinion you see things happening.

Tell me about the activity, the activeness of the U.S. attorney's office in consideration of this referral. You just said they were very active. How do you conclude they were active?

Mr. **Patriarca**. There was a series of grand jury subpoenas that were issued.

Chairman **St Germain**. That had to be corrected quite a few times, with the assistance of the OCC; right?

Mr. **Patriarca**. The OCC was anxious to provide all the relevant information.

Chairman **St Germain**. So you helped the U.S. attorney's office to draft new subpoenas so they could obtain, hopefully, what they were looking for, and what you felt they should have?

Mr. **Patriarca**. There was an assistant U.S. attorney assigned to the case whom we were assisting.

Chairman **St Germain**. How many subpoenas were issued? Not how many corrections were made, but how many subpoenas were actually issued?

Mr. **Patriarca**. Three.

Chairman **St Germain**. Three? Over a period of 3 years?

Mr. **Patriarca**. I believe that is correct.

Chairman **St Germain**. Over a period of 4 years.

Four subpoenas over a period of 3 years, according to Mr. Barnard.

We are really jumping now. We are really moving.

Mr. **Patriarca**. With little help from Mr. Barnard, four subpoenas dated June 13, 1981, December 13, 1982, May 2, 1982, and December——

Chairman **St Germain**. I think there is a difference between three and four because one had to be corrected by the OCC and reissued.

We are now really jumping.

We have four subpoenas, one of them was not as thorough, so we really have only three subpoenas.

Tell me about the other activity. I am really excited now. You have got my adrenaline running.

Mr. **Patriarca**. Mr. Chairman, there was an assistant U.S. attorney assigned to the case who interviewed the examiners, who worked with our regional counsel, and who was talking about the case, and one of our examiners, in fact, participated in a meeting where the U.S. attorney's office interviewed the targets of the investigation.

Chairman **St Germain**. A meeting?

Mr. **Patriarca**. A meeting with the targets of the investigation.

Chairman **St Germain**. Right.

Mr. **Patriarca**. There were a series of meetings involving the examiner.

Chairman **St Germain**. How many?

Mr. **Patriarca**. Counsel advises the number is at least three, but we had probably better ask Mr. Barnard.

Chairman **St Germain**. Now we have three subpoenas. We have three meetings, with staff, and we have a meeting with the targets.

Mr. **Patriarca**. In addition, Mr. Chairman, the examiner who had conducted the investigation worked for 2 months in the summer of 1984 on nothing else but assisting the grand jury in the consideration of this 1981 referral.

Chairman **St Germain**. That is 3 years after the referral?

Who is this?

Mr. **Patriarca**. His name is Mr. Don Wiley.

Chairman **St Germain**. We will talk with him in a little while. Mr. Wylie.

Mr. **Wylie**. I don't want to put words in your mouth here, but it does seem to me that the insider deal, which you discovered in 1981, and perhaps Justice should have pursued those with more diligence at that time, but they were not as serious as stealing depositors' money vis-a-vis the yellow certificate route.

Is that fair to observe?

Mr. **Patriarca**. I don't think there is any question about the difference in severity of the activities referred in 1981 versus the activities that led to the closing of the bank.

Mr. **Wylie**. So whereas there was a suspicion of mismanagement by senior management in 1981, in 1985 there wasn't any suspicion any longer. In 1985 you were absolutely positive and certain that there was a fraud and mismanagement.

Mr. **Barnard**. Mr. Wylie, would you yield just a second?

Mr. **Wylie**. Yes.

Mr. **Barnard**. You are saying that a little stealing is all right?

Mr. **Wylie**. I am not trying to make it analagous to a little bit pregnant or anything like that, but no I am not saying that at all. What I am saying——

Chairman **St Germain**. Don't you dare bring my boy into this.

Mr. **Wylie**. No, no playboy today, thank you very much. I do want to get to a little bit more serious question here though.

In Dr. Chuang's written statement, which this subcommittee received yesterday, he alleges that the Comptrollers office rejected the banks——

Chairman **St Germain**. Excuse me, the subcommittee did not receive it. The subcommittee refused to accept it because Dr. Chuang refused to testify. I made it very clear to the press that we were not accepting it. It was left on the seats here in the committee room.

Mr. **Wylie**. I thank you for that caveat. It was left on the press table. We just recently picked up one in our office.

In Dr. Chuang's written statement, which was left on the press table yesterday, he alleges that the Comptroller's office rejected the bank's offer to demonstrate its solvency. He also says the OCC denied the bank a single hour in which to infuse more capital into the bank to cover its supposed insolvency, "supposed insolvency," his word.

How much time did you give the bank to demonstrate solvency?

Mr. **Patriarca**. Mr. Wylie, from the earliest days of the examination, at least as of Tuesday the 18th, the bank was asked by the examiners to provide assets that would have offset the liabilities that were discovered. The request was repeated a number of times, but was not answered.

Late in the evening of Friday the 21st, for the first time, Dr. Chuang came forward with some documentation of certain assets that were supposedly backing these yellow certificates. The bank's argument, however was that here are some assets, but these assets don't have to offset the yellow certificates since the certificates aren't liabilities of the bank. The bank is serving as an investment medium for these people who want to come in and invest in these various properties, and the bank isn't liable for the certificates. We are only the agent in this business.

The fact of the matter is that the bank couldn't really be an agent because the bank treated the yellow certificates not as if the certificates were part of an agency relationship, but as if they were liabilities of the bank. When somebody came in and requested that one be paid off, the bank paid it out of bank funds. They didn't look to see whether there was a maturity of the underlying asset associated with it. There was no correspondence between the rate being realized in the so-called investments and the rate being paid on the yellow certificate. And, in fact, they overdrew this custodial account to the tune of $1.8 million, regardless of the fact that the so-called investments had not been liquidated.

Mr. **Wylie**. Did Dr. Chuang indicate to you that he could arrange for capital infusion, and did he indicate where it might come from? He says that he did; he alleges that.

I am asking you if he told you he could?

Mr. **Patriarca**. There were, as there are in many failing bank situations, last gasps of, "We can fix it; give us some time; all we need is a little more time to fix it." We had here a bank that was $6 million in the hole, that had been the subject of a run that very day, that was supposedly going to be open for business the next day and that was being run by people we strongly suspected of being perpetrators of a massive fraud. It didn't seem to us the thing to do to just give them some more time because we didn't know how much more of the bank's assets were to go to be dissipated in the interim.

Chairman **St Germain**. Mr. White, did you ask Justice to accompany you on this campaign, or did OCC ask Justice to come in on this examination, or do we have—would you identify yourself.

Be careful now. You are?

Mr. **Alexander**. Richard Alexander.

Chairman **St Germain**. Did you take the oath earlier?

Mr. **Alexander**. Yes. I am a staff attorney with the OCC's Enforcement Division. I attended the meeting in May of 1985 with the confidential informant and subsequent to that meeting contacted the U.S. attorney's office for the Southern District of New York to ascertain the status of the criminal referral.

Chairman **St Germain**. Were they asked to go in or to be present during the surprise examination, in order to, perhaps, secure some documents to prevent their destruction?

Mr. **Alexander**. During the period from May to the commencement of the examination, we had ongoing conversations with the U.S. attorney's office to coordinate a comprehensive approach to the problems that had been identified by the informant. We had several suggestions. We had some concerns about the integrity of documents, and we had expressed those concerns to the assistant U.S. attorney.

Chairman **St Germain**. But did the U.S. attorney state "You go ahead and conduct your surprise examination and we will stay in touch with you," rather than actively participating?

Mr. **Alexander**. Yes, sir. I was keeping——

Chairman **St Germain**. Let's not say "certain officers." Let's forget the legal language. I am an attorney too. Let's forget all that.

Mr. **Alexander**. I will be glad to.

Chairman **St Germain**. Just give us the facts. Did you ask the U.S. attorney's office to come in during that surprise examination, in the event that it was necessary to secure some documents and make sure they didn't disappear?

Mr. **Alexander**. I would like to go over the chronology of our conversations with the U.S. attorney's office and the nature and substance of those conversations.

Subsequent to the first meeting between the confidential informant and our office, I called the U.S. attorney's office to see if there was an active investigation. I was advised at that time that there was not an active investigation. I was advised, though, that the U.S. attorney's office would be interested in following up on this matter, and in fact the assistant U.S. attorney who was working with me participated in a second meeting with the confidential informant in which the very information which had been previously provided to the OCC was provided to the assistant U.S. attorney.

We were deciding on the best approach to uncover the allegations in the most expeditious way possible. We were concerned about the examiner's ability to uncover documents upon entry into the bank, and we had expressed those concerns to the U.S. attorney's office and suggested that they might consider seeking search warrants or seeking individuals related to the allegations.

I have no idea why that office decided not to pursue those suggestions. I am not in a position to comment upon that. We did have an ongoing dialog. During the week of the examination, the director of my division and I were in constant communication with the assistant U.S. attorney.

Chairman **St Germain**. You were informing them because you felt it important that they be knowledgable?

Mr. **Alexander**. As to the status of our examination, yes, sir.

Chairman **St Germain**. The reason for my asking these questions prior to going to Mr. Annunzio—and I will get back to Mr. White for a moment—you look so comfortable there, too comfortable. The black ledger—it was not a little black book, it was a big black book; right? Where is that ledger now?

Mr. **White**. I cannot answer that, sir. That is 6(e) material.

Chairman **St Germain**. I just want to make sure it wasn't lost.

Mr. **White**. I can't address that question, sir.

Chairman **St Germain**. Mr. Alexander.

Mr. **Alexander**. Mr. Chairman, when the bank was closed and the FDIC was appointed receiver, all the documents in the possession of the bank were turned over to the FDIC. Mr. White has been designated as an agent of the grand jury to assist in their investigation of this matter. He may have information relative to the whereabouts of that document. But as Mr. Keeney has pointed out, that is———

Chairman **St Germain**. Frankly, our concern is that we haven't lost the thing.

Mr. **Alexander**. The OCC is not in possession of that book.

Chairman **St Germain**. Is the OCC concerned that it might be lost?

Mr. **Alexander**. No, sir.

Chairman **St Germain**. That answers my question. Mr. Annunzio.

Mr. **Annunzio**. I thank you, Mr. Chairman.

I listened to the testimony yesterday of some of the people who are losing or have lost their money, and I listened to the witnesses today. This bank was only called to my attention a few days ago, but I am really shocked when I hear that back in 1980 and 1981 the regulators were aware of what was going on in this bank. And although the matters were referred to the Justice Department, it takes the Justice Department, in white-collar crimes, 4 or 5 years to investigate and sometimes they never even reach the adjudication stage. In this case nobody has gone to jail yet, right?

Has anybody been indicted? I am curious about these various certificates. To me a certificate of deposit means a deposit. If there is a sign on the front door that says insured by FDIC, you are insured for $100,000 by the FDIC. I can remember many, many years ago when we had bank failures in the ethnic community in Chicago that I am from. There was no insurance, but the people who ran those banks felt such a closeness to the community that the losses were in many instances repaid in full. Others were at least partially repaid.

Getting to the bottom line is that we have these examinations by the FDIC and the Office of the Comptroller. We know that there are literally hundreds of banks that are problem banks in the United States. You would think, after some of the closings of the large banks, that procedures would have been formulated to protect the depositor. That is my interest.

I know of a bank in Chicago, United Bank, which was a small bank that was merged, and the FDIC did make every attempt to pay these depositors where possible. They had assets that they could sell and assets that they could liquidate.

What I would like to know from someone, as I listened to the people yesterday, is the bottom line. As far as I am concerned, the FDIC is responsible if its sign is on the window. If customers go in and get a certificate, whether it's white, yellow, red, or pink, they assume it is insured.

I can remember how some of the regulators were against the committee, Mr. Chairman, when we tried to raise the deposit insurance limits. But then we had some large bank failures, and it was easy to raise the limit to $100,000. Now here we are with $100,000 insured deposits. Here are people who have worked all of their lives, and on a technicality the certificate of deposit is white. I am not a lawyer, I am just an ordinary citizen representing my district. Some certificates, pieces of paper, are white, and others are yellow, and some place in fine print on the yellow ones, on a line that you can't read, it says this certificate is not insured but it is a deposit. The argument is used that the money was taken and the money was invested for these people. As far as the people were concerned, they were depositing in that bank getting 8 or 9 percent or whatever the rate was.

In all of these cases of closed banks it is criminal activity, bad loans, insider information. It is always the same story, whether it's a large bank or a little bank. Mr. Barnard's subcommittee has been doing a fantastic job of getting the facts. We find that it is always the same.

What are the regulators doing? This is my question now. I am interested in the small person who took $10,000 of savings, and went into this bank in good faith because they respected the U.S. banking system. It is not like when I grew up in the thirties, we didn't have insurance and so forth. I went through that whole period. I have seen the misery that bank failures cause. I am glad I am still alive to see the day that while there is some misery still going on, there is not as much as went on in those particular days. What are we going to do with these people? How much money is actually involved here, for these people who are claiming that the certificates are legal certificates of deposit, can you tell me that?

That is, in the eyes of the law, but if the sign on the door says insured, and it is a deposit, it is insured. That is what these hearings are all about. We are not here to find out who is guilty and who is not guilty. The Justice Department has all of that. The Justice Department should send these people to jail if we can find them.

You know you are not going to find them that easily. We are here because the pressure from the community is that they want their life savings or part of their life savings. How much responsibility are we going to assume? If the sign on the door says FDIC insured, I feel we have an obligation to pay these people off.

Mr. Selby.

Mr. **Selby**. Mr. Annunzio, I believe that——

Mr. **Annunzio**. That is the bottom line I am getting at.

Mr. **Selby** [continuing.] Question is best answered by the Federal Deposit Insurance Corporation, which has the authority to determine whether these liabilities are insured. That is their decision.

On your other questions, I sympathize with you. I understand. The hardest thing——

Mr. **Annunzio**. I don't want any sympathy. You had better sympathize with the regulators. You guys have got to sleep at night. These people are losing money. They are losing their money.

Mr. **Selby**. Yes, I understand that. Any time a bank closes in this country, people, especially uninsured depositors, can lose money. That is the system that has been set up. Clearly the FDIC is charged with insuring deposits up to $100,000. The problem in this particular instance, as in other instances, whether it is an ethnic bank or a grassroots bank in the Midwest, is the conduct of the officers and the directors and the question of fraud. Indeed, the people in Golden Pacific could have reasonably thought that their certificates were insured. The fact of the matter is that the insolvency may have resulted from a serious breach of the fiduciary responsibilities of management and the directorate of the bank——

Mr. **Annunzio**. My time is up, but I just want for the regulators to understand these people want their money. They have faith in the American banking system. They have faith in FDIC and $100,000 guaranteed insurance. They have lost that faith. Now they come to the Congress. They expect this committee to help. We are having hearings, we are bringing out the facts, but believe me, if they don't get the money back, they are going to lose faith in the committees of the Congress.

Don't you see what is going on in the social structure of this country, in every large city in America? They are losing faith day after day. Look at the election results. They will tell you that. We have to do something to restore the faith that these people had when they came to this country.

Mr. **Alexander**. Mr. Annunzio, you did ask a question about what the regulators are doing to deal with this problem?

Mr. **Annunzio**. Yes.

Mr. **Alexander**. We definitely share your concern. One of the important messages that the OCC has to deliver is that we are not going to tolerate insider abuse. If you look at the numbers of enforcement actions, removal actions and civil money penalty actions, they show what we are doing.

Mr. **Annunzio**. When did you start this?

Mr. **Alexander**. I am sorry, sir?

Mr. **Annunzio**. When did you start?

Mr. **Alexander**. The trend over the last few years indicates an increasingly aggressive use of——

Mr. **Annunzio**. I wish you a lot of success. We know there are going to be more bank failures.

I am sorry, Mr. Chairman.

Chairman **St Germain**. Mr. Alexander, you are a fine young gentleman, but don't give me that. You are moving like a turtle. Give me some specifics, young man, and then I will start listening. But I need specifics.

Mr. **Annunzio**. Thank you, Mr. Chairman.

Chairman **St Germain**. We will now go to Mr. McKinney.

Mr. **McKinney**. Thank you, Mr. Chairman.

Mr. Selby, several years ago, perhaps as many as about nine, I had several of my constituents come to me and tell me a tale of woe about a new bank in my district, and that insider loans were being made to the officers of that bank and the board of directors who were in other local businesses. I called the Comptroller of the Currency and stated my deep concern.

I, in fact, stated that although this was a, quote—unquote, Democratic bank, I didn't want this thing to turn into politics, but I did want the bank to be solvent, and I was very concerned about what I had heard, and I didn't know the truth of the matter.

In 2 weeks the Comptroller had a person in that bank fulltime, day in and day out, 5 days a week, in essence running the bank, telling the officers, the president and the chairman what to do to straighten out the mess. The mess was straightened out and the bank is sailing along although it has long since, as you are well aware of the trend, merged.

I am really having a terrible problem with the Golden Pacific case and you know this isn't a personal question, this is an institutional question—why in God's name somebody wasn't put in that bank on a permanent day-to-day basis, because we obviously have some pretty solid evidence of insider abuse in 1981, even though in fact the gold certificates were being recorded. And I would like to ask, when do you put people in? Why weren't people put in? If in fact it was bad enough to have a referral to the Justice Department, it would seem to me, Mr. Chairman, it was bad enough to concern the Office of the Comptroller of the Currency to have somebody in there on a permanent basis to ferret out——

Chairman ST GERMAIN. Mr. McKinney, you don't understand. You cannot just refer the thing to Justice and then walk off and say that is Justice's problem. We can't do this and we can't do that. You know, you heard the 6(e) bit, and that is what I call conveniently laying it aside.

Mr. MCKINNEY. Well, let's hear if Mr. Selby thinks it was conveniently laid aside or why in fact the Comptroller wasn't in there on a permanent basis.

Mr. SELBY. Mr. McKinney, I have to disagree with you. It is not our responsibility to run banks. If the regulators had to run 14,500 banks in this country, then you sure would need a lot more examiners than you have now.

Mr. MCKINNEY. Let me straighten something out—I am not a lawyer.

Mr. SELBY. I am not either.

Mr. MCKINNEY. I am just one of those liberal art types. I am just simply going to say I don't suggest running it, but you are the fly on the wall in many institutions. I am aware of where you are. So why not stay in there on a permanent basis?

Mr. SELBY. We do that in numerous instances where, in our judgment, circumstances warrant it. In this particular instance, a decision was made based on what we thought were the interests of the U.S. attorney's office in this case and our belief that the referral would be pursued. As you might suspect, our best utilization of personnel, rather than having people stationed in a bank running it, is to attempt to get rid of the people who are causing the bank's problems.

Chairman ST GERMAIN. Mr. McKinney, would you yield for a second?

Mr. MCKINNEY. I would be delighted.

Chairman ST GERMAIN. I was all set to back you up, Mr. Selby. I was going to say, "Well now, they examined in 1982, in 1983. Both of those were special supervisory visitations. Comprehensive examinations were held in 1984 and 1985. So when you said you had the power to remove, that is where——

Mr. SELBY. I said that our best utilization is to get rid of the people causing the problems. We do have the power to remove. It is very clear under the statute.

Chairman ST GERMAIN. Conover on Penn Square, you know you are clear on that statute. I am happy to hear that. That is where he said they didn't have the power and I told them they had the wrong lawyers or went to the wrong law school.

Mr. **Selby**. In 1984, we were successful in either getting individuals to agree to remove themselves from banking or forcing removals in 18 cases. I think that is a record that shows our commitment.

Chairman **St Germain**. That shows you are on the right road. You've really improved. Mr. McKinney wants to know—right? How about a little removal in Golden Pacific? What happened there? Because they criticized the same man throughout, Stu, the same man who was subject to that investigation.

Mr. **Selby**. Mr. Chairman, as I said, the decision was made at the time based on the criminal referral that we had made to the U.S. attorney's office and the likelihood that it would be pursued. If you ask me what, in hindsight, I would have done, I would have proceeded with removal of these people. Of course, we might still be trying to remove them because it is a long process. There is always question as to whether we have sufficient grounds to remove them. In this case, I am quite sure that Dr. Chuang would not have acquiesed in any removal action but would have resisted it through the administrative process and the courts. But in retrospect, I would have attempted a removal.

Mr. **McKinney**. Let me follow this, Mr. Chairman, from another aspect. We have a problem which Mr. Annunzio referred to, as to whether or not the FDIC is going to accept the yellow certificates or gold certificates as deposits. I suggested yesterday that in 1935, in fact, the FDIC had taken the Fed's definition of what a deposit is, and in fact the Fed has made a decision that these were deposits. But we are faced with some people who may not get their money back. It is a decision that still hasn't been made. It is a decision that is tearing an ethnic community in New York City apart.

Now it seems to me—and again you weren't in charge so this isn't personal. But it seems to me that if the Comptroller of the Currency had moved into that bank and had followed that bank on a basis whether it was the removal of the good doctor or whether it was to make other decisions, that in fact, Mr. Chairman, this bank need not have been closed. That in fact if the Comptroller made a decision which is a good one, that the Justice Department would follow this through, it should have been followed.

And they obviously dropped the ball, or you dropped the ball in not pushing them. But the fact is that if the Comptroller of the Currency had gone in in 1981, this bank probably would be open today, because these practices wouldn't have continued. We would not have this whole issue of what is a depositor, what isn't a depositor, what is happening. Mr. Chairman, that is what bothers me.

There was with the early notice in 1981 no necessity that this bank get to the point of closure. That is something I think we really ought to look into, because it is the Comptroller's job, it is the FDIC's job to try and make banks that are in trouble sound banks. No. 1, we don't want to pay depositors for money that is gone, but No. 2, if we have that kind of warning, I think it behooves us to have a system where in fact the bank never should have been closed if action had been taken early enough. My time has expired.

Chairman **St Germain**. Mr. Barnard.

Mr. **Barnard**. Thank you, Mr. Chairman.

Mr. Chairman, I am trying to show the ultimate of restraint this morning in not referring to the little study made by—thank you, Joe—I was trying to show the ultimate restraint without saying I told you so.

Chairman **St Germain**. I want you to go, go, go.

Mr. **Barnard**. I told you so.

We accommodated the OCC in our report back last year by identifying Golden Pacific as case No. 8. We didn't even call it by its name. It was case study No. 8, and lo and behold, here we have in 1985 bank failure. I won't say it, but it was all there for everybody to see.

There has been some good questions this morning, and I am not going to duplicate all the questions that have been asked. I think they have been excellent. I have already been through this so I am not going to have to rehearse all of these questions. But, Mr. Chairman, it is all here in the written document "according to Barnard and staff."

Chairman **St Germain**. Is that a document or a Bible?

Mr. **Barnard**. I tell you one thing, it's getting prophetic.

Let me just go back and retrace history. What happened during the early eighties? Did we just feel like there could be nothing wrong done in banks? As I understand it, that is the worst era in the history of banking, Mr. Chairman. What happened? Penn Square, United American, Empire Savings & Loan, Continental. I am just hitting the top players in the game. What happened, Mr. Selby? Did we just drop our guard in the early eighties?

Chairman **St Germain**. Doug, in little old Carrizo Springs, TX, there was a guy named Salinas. Now, he financed the air-conditioner in his wife's beauty parlor window. What was it, half of a seventy some-odd thousand dollar Mercedes Benz in which he had a half interest. You talk about fraud.

Mr. **Barnard**. What about Ranchland? We won't even talk about Ranchland. Do you want to know about Ranchland?

Chairman **St Germain**. That is what I am saying. These are not new.

Mr. **Barnard**. What happened?

Chairman **St Germain**. Now we have got the Chinese connection with the yellow certificates; right?

Mr. **Barnard**. Seriously now, Joe, did we just drop our guard in the early eighties and say that we can work out any situation? I mean even the Justice Department said hell, this is not even interesting enough for us to get involved in.

Mr. **Selby**. Congressman, I think there is a different attitude at the OCC now than there was in the early eighties.

Mr. **Barnard**. It is, and I commend you for that.

Mr. **Selby**. In 1984, we took 507 administrative actions against national banks. In fact, now we get criticized because we are too tough. By others, Mr. Chairman, not by you. Also, in the late seventies and early eighties we had an inflationary period of time when bad bank managers looked like good bank managers. The drop in inflation showed them up as bad bank managers.

I am not blowing our own whistle, especially at this hearing, but I appreciate the fact that you have mentioned other financial institutions. Sometimes I think we are the only ones——

Mr. **Barnard**. Oh, no, let me say you have got good company.

Mr. **Selby**. You did say savings and loans?

Mr. **Barnard**. FDIC.

Mr. **Selby**. I thank you. I also thank you for the part of your subcommittee's report where it says on page 111:

> Except for the Office of the Comptroller of the Currency, there is a laissez faire attitude which pervades the banking agencies concerning their responsibility to monitor their referrals to Justice.

Mr. **Barnard**. And that is why I am not going to be too harsh this morning.

Mr. **Selby**. Thank you.

Mr. **Barnard**. Because you have tried to improve your operation.

Mr. **Selby**. Yes.

Mr. **Barnard**. You have instilled some new training with bank examiners, and I think that is good. I want to ask you a question. This is one that really—this is testimony for August 1, 1985. In contrast to our usual procedure—this is on page 3:

> This examination was commended without any advance notice to the bank, in order to minimize the possibility that certain documents might be removed from the bank or otherwise concealed from the examiners.

Oh, don't tell me now that we let everybody know when we are coming in. That is not the proper way, is it?

Mr. **Selby**. Yes, we do that.

Mr. **Barnard**. You do that?

Mr. **Selby**. Yes, we do that.

Mr. **Barnard**. How could you expect this fellow to hide those yellow certificates?

Mr. **Selby**. Even if we had conducted a surprise examination in 1981, 1982, 1983, or 1984, we still wouldn't have found them.

Mr. **Barnard**. Not the way it used to be done. The examiners used to come in and they would lock the bank.

Mr. **Selby**. That is the way it used to be done when the banking system was much smaller.

Mr. **Barnard**. And maybe much better, too.

Chairman **St Germain**. Is he that old?

Mr. **Selby**. Yes, with me.

Chairman **St Germain**. I am talking about Mr. Barnard.

Mr. **Selby**. Yes, I know.

Mr. **Barnard**. It's true, I don't deny the age, but I also gained some experience too, and knowledge.

But really, Joe, tell me, how in the world can you expect not to have a situation like that if you—I would love to be the president of a bank doing something wrong and you call me up and tell me, "I am coming down about next month, Brother."

Mr. **Patriarca**. Mr. Barnard, with the chairman's permission, I would like to respond to your concerns about surprise examinations with a little demonstration. Mr. Chairman, do we have a second?

Chairman **St Germain**. Sure.

Mr. **Patriarca**. Mr. Chairman, we are going to conduct a surprise examination of the financial condition of Mr. Barnard. Mr. Barnard, will you take your wallet out?"

Mr. **Barnard**. I don't carry a wallet.

Mr. **Patriarca**. May we conduct an examination of Mr. Dugger's wallet?

Mr. **Barnard**. I have got some money.

Chairman **St Germain**. Let's go to Mr. Dugger's wallet.

Mr. **Patriarca**. A wallet would be better. Mr. Dugger, what happened to your wallet? It's been sealed with a very official-looking seal that says "Department of the Treasury, National Bank Examiner," and under severe penalty you had better not break that seal. The examiners are now going to look at your wallet. What are we going to find when we do so? We will discover whether you have some cash in there; we can count your cash. We can tell if you have some cash that didn't look right, that was counterfeit. We will find out if you have credit cards. If they have your name on them, fine. If you have somebody else's credit cards, you are in trouble. We could probably call your credit card companies and find out if your credit has been cut off. We can probably also tell if you are driving on an expired driver's license.

Chairman **St Germain**. How about the pictures?

Mr. **Patriarca**. If we had pictures of his family, we could tell whether he had pictures of anyone else. But we would not be able to tell whether you planned for the future. We couldn't tell whether you had a savings account for your children's education. We couldn't tell whether you paid your bills on time. We couldn't tell whether you were a financially sound person.

Mr. **Barnard**. Let me be the devil's advocate. Let me say this. First of all, you are telling me that bank examiners ain't worth a hill of beans?

Mr. **Patriarca**. No.

Mr. **Barnard**. You are telling me that a bank examination is not worth the old picayune during the old Civil War days. Let me tell you what you could do. This is application to the Golden Pacific. Somewhere in that bank was a bunch of blank certificates. They may have been with this lady's office, but somewhere they would have been there. You walk in and you seal that bank. You would have found those Golden Pacific receipts. They would not have had an opportunity—I am not saying that sealing a bank is examinationproof, but certainly it is not the way to conduct examination. You can hide things when you know people are coming.

Mr. **Patriarca**. The surprise examination is a useful tool, and we use it when there is some suspicion of fraud.

Mr. **Barnard**. Let me read it one more time. "In contrast to our usual proceeding"——

Mr. **Patriarca**. That is correct.

Mr. **Barnard** [continuing.] "This examination was commenced without any advance notice." I rest my case. I can understand why you never found these things.

Now let me ask you this other question. Mr. Selby—he is Joe to me—senior officials in both OCC's New York and Washington office, it was determined that the yellow certificates were clearly liabilities of the bank. You are not saying that they were deposit liabilities of the bank?

Mr. **Selby**. We were saying they were liabilities.

Mr. **Barnard**. But not deposit liabilities?

Mr. **Selby**. Deposits are liabilities, but there are other types of liabilities.

Mr. **Barnard**. Does this mean that these liabilities will have to be satisfied by FDIC? Yes or no? You don't know right at this point?

Mr. **Selby**. We don't know.

Mr. **Barnard**. What about the bank's blanket bond; did they have an adequate blanket bond to cover this $6 million?

Mr. **Selby**. I rather doubt it, Mr. Barnard. Usually banks have a minimum coverage.

Mr. **Barnard**. Mr. White, were you in charge of the examination? Who is in charge of the examination?

Chairman **St Germain**. Mr. White.

Mr. **White**. Yes, sir, I was in charge. I believe the primary coverage, if I recall correctly, was $2 million.

Mr. **Barnard**. $2 million?

Mr. **White**. I don't believe they had any excess coverage.

Mr. **Barnard**. I have one more question, Mr. Chairman.

I want to go back and revisit with one other question that has come up. Maybe you can satisfy me. I still am concerned with what happened in the 15 months between your findings and the referral to the Justice Department. What happened during that period of time?

Chairman **St Germain**. Which 15 months?

Mr. **Barnard**. This was between September 1980 and December 1981, they were in the bank in December 1980 but the referral to the Justice Department was not made until 1981.

Mr. **Alexander**. Congressman, if I may respond, the OCC received a complaint in September 1980. A decision was made to conduct an inquiry into that complaint simultaneously with the regularly scheduled examination.

Mr. **Barnard**. Which was on January 19.

Mr. **Alexander**. Which commenced on January 19. The purpose was to keep the bank from finding out the scope of our investigation. So the OCC began investigating the particular allegations on January 19, and the referral was made in December.

Mr. **Barnard**. But it was also in there on July 27 of this same year?

Mr. **Alexander**. Yes, sir; but the complaint and the allegations that formed the basis for our special investigation were not received until September of 1980.

The investigation was completed, leg work was done by the examiner, and a report was prepared for his supervisors in the district office. It received significant review both from a supervisory standpoint and from a legal standpoint, and ultimately it was sent to the U.S. attorney's office in December of 1981. We believe the review process is important to ensure quality referrals.

Mr. **Barnard**. Let me ask you this question: The subsequent additional subpoenas, either three or four, one correction and three additional ones, came in 1982, June 1982, December 1982, May 1983, and December 1983. Would you say that that is a long, long time to pursue justice in a case like this?

Mr. **Alexander**. Congressman——

Mr. **Barnard**. In the meantime the bank is still in the hands of people who are subject——

Mr. **Alexander**. The criminal investigation process and the fact that there were subsequent grand jury subpoenas suggest that perhaps the U.S. attorney's office was expanding their investigation or realizing that there were additional documents that were needed. That is one of the reasons we attempt to work with assistant U.S. attorney's office in drafting their subpoenas, so that they obtain the information necessary to pursue their referrals. I don't think it is usual——

Chairman **St Germain**. Doug, I am sorry.

Mr. Alexander, boy, all criminals listening should pay heed. Hear ye, hear ye. You have got 4 years to finish all your criminal activities, because we have got really go-go activity going on here. Mr. Patriarca is very active here. You have got 3 to 4 years. Do you really, sir, think that this was expeditious handling?

Mr. **Alexander**. I don't think I suggested, sir, that it was expeditious.

Chairman **St Germain**. Well, let's not use the word expeditious. Would you say it was active or was it lethargic?

Mr. **Alexander**. I was not in the office at that time.

Chairman **St Germain**. I wasn't in the office either. I am just looking at the facts. Would you characterize this as being an active investigation or a lethargic one?

Mr. **Alexander**. I think the office would have preferred that the matter be handled more quickly, yes, sir. I can't comment upon how actively the U.S. attorney's office——

Chairman **St Germain**. You are so polite that you should be a U.S. attorney. Thank you, Doug.

Mr. **Barnard**. I might just refer you to page 96 of this prophetic document that we have been quoting from where it says that:

> The Federal prosecutors have complained—

Now this is about the Golden Pacific case in particular; this is not general, Mr. Chairman; this is about this particular case that you are having these hearings on—

> Federal prosecutors have complained about the agency's reluctance to permit the examiners who detected the misconduct and prepared the referral documents to discuss the matter with the FBI or with them.
>
> One assistant U.S. attorney stated that the OCC refused to send an examiner or an investigator involved in that particular referral to assist the FBI agent or to develop a case without a grand jury subpoena.

I guess this is why we got the other subpoena.

> She—

I don't know who it was—

> She believed that this was not an appropriate way to obtain Federal agency assistance in prosecuting the referrals. Six former banking agency examiners confirmed that the banking agency discouraged or actually prohibited contacts between the examiners and law enforcement officials.

Chairman **St Germain**. The OCC referred the case to Justice, right?

Mr. **Barnard**. Yes.

Mr. **Alexander**. Congressman, if I may respond to that.

Mr. **Barnard**. Good.

Mr. **Alexander**. The 1981 criminal referral specifically said in the closing paragraph that we would provide information pursuant to a grand jury subpoena, in accordance with the Right to Financial Privacy Act. I think the referral suggests that the office was particularly interested in assisting the U.S. attorney's office in the prosecution of the case. I think it is unfair to characterize the concern that this office has for the requirements of the Right to Financial Privacy Act as a desire not to be cooperative because in our view the Right to Financial Privacy Act imposes a legal impediment to the transfer of customer information to the Department of Justice.

Mr. **Barnard**. That hasn't been changed by the law, has it, to date?

Mr. **Alexander**. No, sir; not to my knowledge.

Mr. **Barnard**. But there are other agencies who get around that act. How do they get around it?

Mr. **Alexander**. I do not know.

Mr. **Barnard**. I mean, it was again brought out in our study that differing agencies interpret the act often unnecessarily restrictive and that the action not be regarded as an insurmountable barrier to providing effective assistance to the Justice Department, and that the banking agencies can take feasible steps to overcome the restrictions in the act.

I mean, I think that this thing is so important that we ought to not hide behind this Right to Privacy Act, although it's a good act, and I support it, Mr. Chairman, but yet we shouldn't hide behind that act when we can get around it and bring criminals to justice.

Mr. **Patriarca**. We agree completely. We are not making any attempt to hide behind it. What we want to do—and that is why we assist the various U.S. attorneys' offices in drafting grand jury subpoenas—is give them all the information that is relevant so that we can provide examiners. If the assistant U.S. attorney thought it was an inappropriate response, you should read the Department of Justice's own interpretation of the Right to Privacy Act and the procedures for that act. We are absolutely adamant in our support of the Justice Department in providing information and in providing examiners, and I think this case is a good example.

Although we are not hiding behind the Right to Financial Privacy Act, I disagree with the notion that the act is not an impediment. In fact, the Administration, following the hearings on the Bank Secrecy Act, has proposed amendments to the act to reduce the barriers it raises.

Mr. **Barnard**. The chairman and I cosponsored legislation last year to do that. We haven't brought it forth, but that was done last year, Mr. Chairman, if you recall.

Mr. **Patriarca**. We applaud your efforts.

Chairman **St Germain**. Thank you, Mr. Barnard.

Mr. White, you conducted special supervisory visitations at Golden Pacific on August 15, 1983 to August 23, 1983; correct?

Mr. **White**. Yes, sir.

Chairman **St Germain**. Then on July 27, 1984 to August 15, 1984, you went in on targeted examinations?

Mr. **White**. Yes, sir.

Chairman St Germain. Then February 11, 1985 and March 14, 1985, you conducted comprehensive examinations; correct?

Mr. White. That is correct.

Chairman St Germain. When was it first brought to your attention that Dr. Chuang, the president of the bank, was the subject of a criminal and grand jury investigation?

Mr. White. I was aware that there was a criminal investigation, but I did not know any of the substance of the investigation.

Chairman St Germain. When did you first find out that the subject of the investigation was Dr. Chuang?

Mr. White. Dr. Chuang himself told me about it in the summer of 1984.

Chairman St Germain. In the summer of 1984?

Mr. White. Yes, sir.

Chairman St Germain. So you were dispatched to examine this institution and no one from the Comptroller's office ever told you?

Mr. White. I knew it was under investigation.

Chairman St Germain. That Chuang was the subject of the criminal investigation. You heard it from Dr. Chuang himself?

Mr. White. The original memorandum referred to in the reports specifies who the people are. I was aware of that memorandum, which is dated February 27, 1981, I believe——

Chairman St Germain. So you were aware of it before you ever went into the fact that Dr. Chuang was the subject of this ongoing investigation?

Mr. White. Yes, sir.

Chairman St Germain. When did you find out that Justice had decided and determined that the case was de minimis, and they were not going to pursue it any further?

Mr. White. I never saw a de minimis memo. My understanding was that the holding company was approved in October 1984, and our office was under the understanding that it had been terminated.

Chairman St Germain. Did you see any letter from Justice to that effect to the Comptroller's office?

Mr. White. I never saw it.

Chairman St Germain. Mr. Selby?

Mr. Selby. No, I didn't.

Chairman St Germain. I can't hear you, Mr. Selby.

Mr. Selby. No, I did not.

Chairman St Germain. Embrace the microphone. Has the Comptroller's office ever been told officially by Justice that this investigation has been dropped?

Mr. Alexander. Mr. Chairman, during the fall of 1984 the examiner who was working with the U.S. attorney's office as an agent of the grand jury was called and informed that the matter would probably be dropped. The office was never officially notified in a letter by the U.S. attorney's office that the matter had been dropped. However, we were aware that the bank's holding company application had been held in abeyance pending completion of the criminal investigation, and since the holding company had, in fact, been established, we considered that as additional evidence that the matter had been dropped.

Chairman St Germain. But that is just, as they say, circumstancial evidence. Have you still not heard from Justice?

Mr. Alexander. Not officially, sir.

Chairman St Germain. Right.

Mr. White, let's go back. The memorandum you referred to had no reference to a criminal investigation, the 1981 memorandum of understanding?

Mr. White. That is a referral.

Mr. Selby. He was referring to the criminal referral when he said memorandum.

Chairman St Germain. You saw the criminal referral of 1981?

Mr. White. February 27, I believe, is the date of the memorandum. The referral—I am sorry, I am using the wrong word.

Chairman St Germain. The referral?

Mr. Alexander. Mr. Chairman, maybe I can clarify this. The examiner who conducted the special investigation compiled a memorandum to his supervisors in the district office which outlined the particular allegations and the transactions that had taken place. That particular document is referenced in each and every examination report in the confidential section.

Chairman St Germain. Does that mention the criminal referral to Justice?

Mr. Alexander. That formed the basis of the criminal referral.

Chairman St Germain. Does that mention the criminal referral to Justice?

Mr. Alexander. The memorandum would not mention the criminal referral.

Chairman St Germain. That is right.

Mr. Alexander. It was drafted prior to the sending of the criminal referral to the U.S. attorney's office.

Chairman St Germain. When did you first find out about the criminal referral to Justice? You didn't find out from that memorandum, because it wasn't in that memorandum. Mr. White——

Mr. Selby. Mr. Chairman, I can answer that for him.

Chairman St Germain. I don't want you to. I am talking to Mr. White right now, Mr. Selby.

Mr. White. It was referred to in some of the S.P. memorandums that were generated by our office.

Chairman St Germain. What is an S.P. memorandum?

Mr. White. A special projects memorandum—for banks that require additional attention.

Chairman St Germain. It was my understanding from conversations with staff and people at the Comptroller's Office that your first knowledge of this was from Dr. Chuang when he told you about it?

Mr. White. That is the first knowledge I had of the actual allegations that were being made.

Chairman St Germain. What did you have prior to that conversation?

Mr. White. Knowledge that there was a criminal investigation being conducted. I guess grand jury secrecy prevents more being made available to me.

Chairman St Germain. So there was nothing from the Comptroller's office that told you that Dr. Chuang, the one-man band at the Golden Pacific Bank, was under criminal investigation?

Mr. White. No. I was aware of that, but I did not know——

Chairman St Germain. How were you aware of it?

Mr. White. I just mentioned the S.P. memo.

Chairman St Germain. So you are now telling us that you heard about this and were aware of the criminal investigation of Mr. Chuang prior to his telling you?

Mr. White. Yes.

Chairman St Germain. Thank you. Mr. Wortley.

Mr. Wortley. Thank you, Mr. Chairman.

Mr. Selby, Chairman St Germain received a letter from Mr. Isaac dated June 27, in which he says:

> We have reason to believe that some complainants knew full well that they were not placing their funds in insured deposit accounts. Among other things, some may have been motivated by a desire to evade payment of income tax, some by a desire to avoid currency control restrictions, and some by a desire to obtain a higher interest rate.

Yesterday Mr. Isaac also said:

> No form of identification was required. Information required for tax purposes was not taken, and no tax reporting was done. Investment in certificates were not included either in the reports to the bank regulatory agencies or in currency transaction reports.

Do you have any information that might lead you to believe that some money-laundering was taking place by the issue of these yellow certificates?

Mr. Selby. No, sir, I do not.

Mr. Wortley. How many of these yellow certificates were purchased offshore?

Mr. Selby. I have no idea.

Mr. Wortley. Does anybody up there have any idea?

Mr. Alexander. We understand there were approximately 360 yellow certificates, but we do not know the source of the funds.

Mr. Wortley. There were 360 yellow certificates?

Mr. Alexander. Yes, sir.

Mr. Wortley. How many of them might have come in from their loan production offices rather than in the main bank? You don't have any of that information?

Mr. Alexander. No, sir.

Mr. Wortley. What do you think makes Mr. Isaac believe that the motivation for purchasing yellow certificates may have been to launder money?

Mr. Selby. After we placed the bank in receivership, the FDIC conducted its own investigation of the certificates. Whatever Mr. Isaac said, I would assume, came from documents that they have looked at or conclusions they have reached or assumptions that they have made based on their own investigation.

Mr. Wortley. You are in your capacity as Acting Comptroller, I presume you are also an acting member of the Federal Deposit Insurance Corporation?

Mr. Selby. That is correct.

Mr. Wortley. Don't these subjects come up in your meetings, or haven't you had any meetings?

Mr. **Selby**. It depends on the individual case. Decisions that have to be made by the board are brought to the board, but generally the board isn't presented the specifics of liquidations.

Mr. **Wortley**. Even an item of this magnitude isn't discussed by the board?

Mr. **Selby**. Again, it depends on the individual case.

Chairman **St Germain**. Mr. Selby, couldn't you—Mr. Isaac has one vote; right?

Mr. **Selby**. That's correct.

Chairman **St Germain**. Couldn't you and Irv Sprague overrule Bill Isaac on this?

Mr. **Selby**. We could, certainly.

Mr. **Wortley**. I notice in your statement on page 7 of your prepared text you note that the yellow CD's "were clearly liabilities of the bank." Wouldn't they be insured, and shouldn't the FDIC honor them?

Mr. **Selby**. It depends entirely on the FDIC's determination as to whether the customers thought they were insured or uninsured, whether the documents themselves indicated that they were or they were not, etc. We had no way to verify that since all we were seeing were copies of the certificates. All we determined, as Mr. Patriarca said, was that they were treated as liabilities of the bank. They were paid by the bank. The bank received the funds. That is the case even though the records were kept separately in a manual-type system in Ms. Shieh's office when the rest of the bank was automated.

Mr. **Wortley**. Do you have in your possession, or the Department of Justice, or the FDIC, have the second set of books, the ones that the head teller kept? Do you have those?

Mr. **Selby**. The OCC does not have them. As Mr. Alexander said, when we declare a bank insolvent and turn it over to the FDIC, we turn over all records of the bank.

Mr. **Wortley**. But do you have the second set of books which has the yellow certificate obligations?

Mr. **Selby**. We turned them over to——

Chairman **St Germain**. Mr. Wortley, the Chair pursued that earlier, and the Chair has conceded to the request of Justice that this be 6(e)—that is why the Chair discontinued pursuance; but the Chair has a gut feeling that those have not been lost.

Mr. **Wortley**. That is very reassuring, Mr. Chairman, to know that they haven't. My time is almost up.

I wonder how often does your office conduct a so-called surprise examination?

Mr. **Selby**. We conduct them whenever fraud is strongly suspected or verification of information is needed and there is a risk of destruction of evidence. I can't tell you how many times that is.

Mr. **Wortley**. When you think criminal activity is involved or normal mismanagement or what?

Mr. **Selby**. I don't know that mismanagement would do it. Certainly suspected fraud would.

Mr. **Wortley**. Is it customary for—this became a holding company, Golden Pacific did in the first part of the year—is it customary for a holding company to ever issue a certificate like these yellow certificates?

Mr. **Selby**. A holding company cannot accept deposits. They can issue liabilities, however. Usually their liabilities are commercial paper, notes payable, instruments like that. Given that, a holding company could issue a certificate that represented a debt rather than a deposit.

Mr. **Wortley**. There can't be any confusion between the fact that the yellow certificate was actually issued by the bank as opposed to being issued by the holding company.

Mr. **Selby**. I would doubt that there would be confusion.

Mr. **Wortley**. My time has expired. I thank you very much.

Chairman **St Germain**. Mr. Cooper.

Mr. **Cooper**. Thank you, Mr. Chairman.

Mr. Selby, I believe I saw on TV this morning that a bank in a west coast Chinatown had failed. I don't suppose you have——

Mr. **Selby**. This morning?

Mr. **Cooper**. On the TV this morning. I am not sure exactly when it failed. I assume it was late yesterday evening. It didn't have the word "national" in the title so I assumed it wasn't under your jurisdiction; but I was just wondering if you did have any information through your cooperative relationship with other banking regulatory agencies about this failure, in particular, whether anything like yellow certificates were involved?

Chairman **St Germain**. Where was it?

Mr. **Selby**. If a bank had failed and the FDIC had to take some action, I would have voted on it. I have not voted on any action regarding a Chinese bank in San Francisco.

Mr. **Cooper**. I hesitate to call the name of it, because my memory wasn't perfect this morning about 7 o'clock when I saw it on the TV, but it did make the "Today Show".

Examining the loan production office question, do you routinely include LPO's when you make an examination of a bank?

Mr. **Selby**. We do not do so routinely. What we do is routinely decide what we have to check in a bank's operations. For example, we do not routinely go into every branch office of a large bank. Instead we concentrate on the controls and the records and the systems. We do examine LPO's when we think it is necessary, and we do spot check occasionally.

Mr. **Cooper**. It struck me as very unusual. The FDIC testified yesterday that records were perfect in the LPO regarding some of these certificates, and, in fact, therefore they decided to grant FDIC protection to these deposits, even though it was per se illegal for any of these LPOs to take in one penny of money.

Why didn't the Comptroller's Office find that they were taking in deposits since these were properly booked deposits? In fact, they dotted every "i" and crossed every "t."

Mr. **Selby**. They were not properly booked. What the FDIC, I assume, is saying is that they found records, as we found records.

Mr. **Cooper**. I don't believe these are the so-called yellow certificates.

Mr. **Selby**. The regular certificates.

Mr. **Cooper**. I believe these are other deposits?

Mr. **Selby**. Yes, I stand corrected. Apparently, from what we know now, the LPO's were taking deposits which were booked in New York. We had done a spot check of LPO's earlier in the life of this bank and found out that there was no deposit taking. We had not checked it again since we apparently had no reason to do so.

Mr. COOPER. You don't have any idea for what period of time these LPO's were operating, in a sense, as interstate branches.

Mr. SELBY. I have no idea. It would be our normal practice if we found a bank were taking deposits or disbursing loan proceeds to stop it from doing so, as we have with other banks.

Mr. COOPER. You are familiar then with other cases of LPO's taking in deposits illegally?

Mr. SELBY. We have found more instances of them disbursing loans than taking deposits. This may be the first case involving deposits.

Mr. COOPER. And you do crack down on them?

Mr. SELBY. Yes, we do.

Mr. COOPER. This isn't a case of Todd Conover de facto leniency within a State?

Mr. SELBY. No, indeed not.

Mr. COOPER. That is reassuring to know.

Mr. SELBY. No.

Mr. COOPER. I share my colleagues concern about the lack of surprise examinations. Was there a single surprise examination that took place of Golden Pacific between 1981 and 1985?

Mr. SELBY. Only the one in 1985. You might also count the special investigation we did under cover of the regular 1981 examination.

Mr. COOPER. Since it, after the 1981, you assigned Golden Pacific to the special projects division?

Mr. SELBY. Yes.

Mr. COOPER. Even though it had that special designation, it still was not subject to a surprise examine?

Mr. SELBY. We do not normally conduct surprise examinations just because a bank is in the special projects program.

Mr. COOPER. Does the OCC plan on requesting money from Congress so that you can beef up your staff, so that banks which are on a special project list could be occasionally subject to a surprise examine, so that a corrupt bank house might occasionally fear that he would be examined on a surprise basis, because as I understand it today, absent truly extraordinary circumstances, a bank manager would have no fear.

Mr. SELBY. I will answer that in a different way if I may. If we make a determination that surprise examinations are necessary, I think we can fund them ourselves without coming to Congress. We do make surprise examinations, but I would not recommend that we go back to doing every examination as a surprise examination.

Mr. COOPER. I am not requesting you to go that far, but I would think fear is a valuable element in enforcement.

Mr. SELBY. I would agree with you that surprise examinations serve special purposes, and that we use them for those purposes.

Mr. COOPER. Another concern of mine is I haven't heard mentioned in your testimony today the language of an FDIC stamp on a certificate of deposit as something that OCC's office could see, check and object to whether the stamp was illegible or whether this was no stamp. It seems to me that that should be something that is within the scope of an OCC examination.

Mr. **Selby**. I think we did, as a matter of fact, check on the regular certificates of deposit, particularly as they relate to certain consumer laws. When we don't see them, we can't check them.

Mr. **Cooper**. But granted you did eventually see the yellow certificate.

Mr. **Selby**. We finally saw a copy.

Mr. **Cooper**. Once you see a copy of the yellow certificate, is it within the scope of your examination to object if there is not proper FDIC notice on the certificate that it is not insured by the FDIC?

Mr. **Selby**. Yes, it is within our scope.

Mr. **Cooper**. Could you give me an estimate of how many banks conduct significant off-book transactions in this country?

Mr. **Selby**. There are a lot that conduct off-balance sheet activities, but that maintain records and have to record contingent liabilities and letters of credit and things like that, which are normal banking procedures.

Mr. **Cooper**. Off-balance sheet, but how about off-book?

Mr. **Selby**. Off-book, I hope there aren't any.

Mr. **Cooper**. This is the only case you have encountered so far this year?

Mr. **Selby**. Yes, it is.

Mr. **Cooper**. How about last year?

Mr. **Selby**. I don't think we had any. I can't remember the last time we experienced activity like this.

Mr. **Cooper**. So this is truly a unique and remarkable egregious case of fraud.

Mr. **Selby**. That is correct.

Mr. **Cooper**. It seems that Justice Department has a de minimis policies, which I assume you all were aware of. It sounds like if it is not over $250,000 they don't pay much attention to it.

Since you have made a criminal referral earlier, and since it is illegal without your permission for an officer or a director of a bank to serve that has been convicted of a crime involving dishonesty that would seem to me to impose on you all at last an obligation of periodic scrutiny if not surprise exams, if not cease and desist orders, or whatever.

I would just encourage you in the future, in circumstances remotely bordering this, to be aware that apparently the Justice Department is strained for resources and wouldn't exactly take a quick forceful view of the matter when they get the chance.

My last one would be this. In several cases already it seems like when fraud is discovered, or there is a problem with a bank, the bank itself is indicted, and many of the officers of the bank get off the hook of, I hope that if you have any say in the matter that you would not give us another crime without criminals, but you would help in facilitating the process of naming individuals, so that accountability can be had.

Thank you, Mr. Chairman. My time is expired, and I will have to ask to be excused due to another appointment.

Chairman **St Germain**. Mr. Wylie.

Mr. **Wylie**. I just have one additional question.

Mr. Selby, in examinations subsequent to the one in 1981, when your office noted the unacceptable accounting practice as far as bankers acceptances were concerned, did the OCC specifically ask the bank as to why it had discontinued these accounts, and more specifically, would it not be unusual for the bank to legitimately dispose of these accounts in less than 6 months, which is what they did?

Mr. PATRIARCA. Mr. Wylie, the answer I can offer is one that involves conjecture. We cited the accounting discrepancies as a violation of law and regulation in the 1981 examination report. We cite such violations in the report of examination because we want them corrected. If the violations continue when we go back into the bank, we are extraordinarily upset. It is not unusual for us to cite a violation and go back and find it gone. Given this, I don't know of any specific inquiry of Golden Pacific as to why it had discontinued those accounts.

Mr. WYLIE. Thank you, Mr. Chairman.

Yesterday I was tied up in a House-Senate Conference Committee for most of the afternoon. I would like to submit some questions to the FDIC in followup of that hearing.

Chairman ST GERMAIN. Without objection it is so ordered.

Mr. WYLIE. Thank you, sir. I would like them included as part of the record?

[The following letter was received from the Federal Deposit Insurance Corporation (FDK) containing Congressman Wylie's questions with attached responses:]

FDIC
Federal Deposit Insurance Corporation
Washington, D.C. 20429

Office of Congressional Relations and Corporate Communications

OCT 16 1985

October 15, 1985

Honorable Chalmers P. Wylie
Committee on Banking, Finance and
  Urban Affairs
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Wylie:

This letter is in response to your letter of August 22, 1985 to Chairman Isaac regarding the testimony of Deputy General Counsel Michael Burgee before the Financial Institutions Subcommittee on July 31, 1985 relating to the failure of Golden Pacific National Bank. Responses to the questions in your letter are set forth below.

1. Mr. Burgee stated during the hearings that of the 364 outstanding yellow certificates, claims have been filed for only 160 certificates (representing approximately $6.1 million). Can you offer any explanation as to why claims have not been filed for the remaining $8 million of outstanding yellow certificates. Is there a pattern - for example, are claims being made only for certificates of a certain denomination?

As of October 1, 1985, approximately 220 claims have been filed with the FDIC for the 364 yellow certificates known to be outstanding. The claims filed represent approximately $8 million of the $14.2 million in funds outstanding on yellow certificates. While the FDIC continues to receive additional claims with respect to yellow certificates, we can only speculate as to why claims have not been filed for the remaining certificates. For example, some customers of the failed Bank may remain apprehensive about coming forth to file claims. The FDIC has taken measures, including translating signs into Chinese, to explain how to file claims and what information is necessary to file a claim.

The FDIC has reviewed the Bank's files and conducted informal interviews with former officers and employees of Golden Pacific National Bank. The FDIC's investigation indicates the possibility that some transactions may have involved illegal immigrants, that some certificates bear either a fictitious name or no name, and that other certificates may involve illegal transactions with funds from foreign countries. The FDIC is continuing its investigation into the circumstances surrounding investments in the yellow certificates. At the present time, there does not appear to be any discernable pattern reflected in those claims filed, nor do these claims appear to represent only certificates of a certain denomination.

2. Once the Comptroller of the Currency declares a bank insolvent and places it in the hands of the FDIC - can your agency challenge the OCC in their assessment of a bank's assets and liabilities? What will happen if the FDIC later determines that the Golden Pacific National Bank did in fact have assets to back up its liabilities, but were just unable to document such during the week of June 17-21?

The provisions of the National Bank Act (12 U.S.C. § 191) give the U.S. Comptroller of the Currency exclusive discretionary authority to make a determination of whether a national bank is insolvent. The courts have uniformly held that the Comptroller's determination of insolvency is conclusive and not subject to judicial review unless there exists clear and convincing proof of arbitrariness, bad faith, fraud, or clear error of law.

3. Ms. Koo, Executive Director of Asian Americans for Equality, presented serious accusations of the FDIC's handling of the Golden Pacific case. She asks in her statement, "Is there any basis to the speculation that there was a prior agreement between FDIC and the Hongkong-Shanghai Bank and the swift bidding process was just a formality?" Please respond to this allegation. Also, was the hongkong-Shanghai Bank the sole bidder?

Ms. Koo's allegation has no basis in fact. There was no agreement of any kind between the FDIC and The Hongkong and Shanghai Banking corporation ("Hongkong Shanghai") prior to the closing of Golden Pacific National Bank.

Hongkong Shanghai and other entities were first contacted regarding the possibility of bidding on Golden Pacific National Bank on about June 24, 1985. Hongkong Shanghai was one of thirty-six entities invited to the bid meeting on June 25, 1985, at which the FDIC explained the transaction and solicited bids from the institutions in attendance. Hongkong Shanghai was the only bidder, submitting a bid of $6.4 million, which represents their recognition of the premium or "going concern" value they were willing to pay for the deposits of the Golden Pacific National Bank. This $6.4 million premium increased the funds available by the FDIC as receiver for ultimate distribution to the creditors (including uninsured depositors) of Golden Pacific National Bank.

4. Please explain the bidding process. What criteria is used to determine which bank is allowed to purchase a failing institution's assets?

It is the practice of the FDIC to assemble the largest possible list of prospective bidders, taking into account the unique circumstances of each bank failure. The list of bidders may include banks, holding companies, and individuals. Criteria used to select potential bidders include geographic location, applicable state statutes, and the bidders' managerial and financial capability to complete a transaction of this size without overburdening the acquirer's resources.

Once a list of potential bidders is compiled, the prospective bidders are generally given notice of the bidders' meeting in advance of the bank's failure. As noted above, in the case of Golden Pacific National Bank, bidders were not contacted until after the closing of the Bank. The purpose of the meeting is to provide information on the bank, details and conditions of the proposed transaction, and answers to any questions that potential bidders might have.

The bids are submitted at a specified time and place, generally within twenty-four hours following the bidders' meeting. Immediately following the closing of the bank and the FDIC's appointment as receiver of the bank, any bids submitted are reviewed. The bids are communicated to the FDIC's Board of Directors which determines whether to approve the acceptance of the highest bid which meets the terms and conditions of the proposed transaction, in accordance with the provisions of the Federal Deposit Insurance Act (12 U.S.C. § 1823(c)).

5. Ms. Koo states that "Some residents purchased gold through Golden Pacific. Approximately $9 million of gold have yet to be accounted for." Could you please explain what she is referring to?

Golden Pacific National Bank acted as an agent in transactions whereby approximately 4000 ounces of gold valued at approximately $1.2 million were purchased for customers. Although Ms. Koo made reference in her testimony to $9 million of gold, the FDIC's investigations indicate that there are only $1.2 million in claims relating to transactions in gold by the bank.

The FDIC has located certificates evidencing the customers' interests in the gold, and is negotiating with another financial institution to transfer these interests on behalf of the customers. Customers may then file claims and take possession of the gold or elect to have the transferee bank retain possession on their behalf.

6. In my opening statement, I referred to the possibility of a hotline number for bank employees to anonymously tip off the regulators to deceptive practices by bank insiders. I am thinking of something similar to the GAO and DOD hotlines for waste, fraud and abuse. Could you comment on this possibility?

Although further attention to preventing insider abuse is clearly warranted, we are not persuaded that a "hotline" for the exclusive purpose of providing anonymous tips by bank employees to regulators about insider abuse would be a cost effective means. The FDIC currently maintains a toll-free consumer "hotline" number to facilitate referrals of information pertaining to fraudulent banking activities. The FDIC has occasionally received anonymous telephone calls at its Regional Offices concerning bank insider activities. In these situations, the FDIC initiated further investigations into the alleged activities.

If there is any additional information which the FDIC may be able to provide, please do not hesitate to ask.

Sincerely,

Graham T. Northup

Graham T. Northup
Director
Office of Congressional Relations

Chairman **St Germain**. I have a few more questions, Mr. Selby. I think you would agree that Dr. Chuang actually ran a one-man bank in the case of Golden Pacific. He was a very strong presence. He actually ran the entire operation; is that not correct?

Mr. **Selby**. I believe it is, sir, and we criticized the bank for that at every examination.

Chairman **St Germain**. And the fact that there was no successor being groomed?

Mr. **Selby**. No continuity and no delegation, that is correct.

Chairman **St Germain**. After OCC makes a criminal referral to Justice, and this is a little repetitive, but I want to capsulize here, does the OCC just wait for the U.S. attorney to take action, or until OCC receives a letter from a third-party informant, such as happened in this case, or information laying out details of a banks illegal activities? Should those be the only times you take some meaningful action?

Do you think that in the future the OCC should look at taking independent actions even though there is in process, or pending, a referral with Justice?

Mr. **Selby**. I think we should take independent action when it is warranted.

Chairman **St Germain**. So we can learn from this case?

Mr. **Selby**. Yes.

Chairman **St Germain**. Mr. Selby, on the special investigation that you mentioned on only pages 9 and 10, is it accurate that Mr. Wiley concluded his investigation on February 27, 1981 and at that time recommended a criminal referral?

Mr. **Selby**. Yes.

Chairman **St Germain**. Is it accurate that the criminal referral was then made on December 8, 1981?

Mr. **Selby**. That is correct.

Chairman **St Germain**. Now could someone explain to me the time lag between February 8, 1981 and December 8, 1981, that took up almost 9½ to 10 months after Mr. Wiley's completed investigation recommending criminal referral before such recommendation was transmitted to the U.S. attorney's office?

Mr. **Selby**. I will answer that.

We have developed an elaborate review process for criminal referrals because we want to make each referral as good as it possibly can be. We want to be sure that it is supported by the most accurate facts and that it doesn't need to be redone or have additional facts developed. The review involves both examiners and attorneys. And that all takes time.

On the face of it, it seems like a very long time from February to December. But this case was important to us, and we wanted the Justice Department to have the best information that they could in this referral.

Chairman **St Germain**. So you took this period of time to be very thorough so that you could present to Justice a gorgeous package?

Mr. **Selby**. A supportable package.

Chairman **St Germain**. A model package?

Mr. **Selby**. A supportable package.

Chairman **St Germain**. A piece of cake?

Mr. **Selby**. A supportable package.

Chairman **St Germain**. We might call it a piece of cake. The trouble is that Justice had diabetes and didn't like the cake. Therefore, they proceeded to take a long time before they made the decision that the cost benefit ratio wasn't there and that it was de minimis.

Mr. Alexander, did your office, since you are in the counsel's office, have any idea as to what the amount involved was?

In other words, when you sent this over to them, did it contain the referral?

I think we can discuss this referral. I don't think 6(e) can apply here, because we were told it was a broad enough type of case in 1985. You can't have it both ways.

I think this is open for grabs. In the referral that went from February to December 1981, to make up a supportable case, did you also have a statement of what the amounts of money involved were?

Mr. **Alexander**. I think the fact that we sent the referral to the U.S. attorney's office suggested that we felt further investigation was appropriate.

Chairman **St Germain**. I assume that, you don't have to tell me that.

My question to you is about the amount of money involved, Mr. Alexander.

Mr. **Alexander**. I am not aware of any guidelines as to what cases they would pursue. I do know——

Chairman **St Germain**. I am asking. Will you listen to my question? It is a very simple question.

In the package that went to Justice on Golden Pacific, would Justice have been able to determine from that package what the parameters were as far as the amount of money involved in this case were concerned?

Justice finally comes back in October 1984 and says between $10,000 and $34,000. Were those numbers, or any estimates comparable to that, contained in your referral?

Mr. **Alexander**. I believe the transactions were described in detail, so I assume the amounts would have been included in the referral.

Chairman **St Germain**. So those numbers between the parameter of $10,000 to $34,000 would have been included in the referral, or rather obvious from the referral?

Mr. **Alexander**. Yes, sir.

Chairman **St Germain**. It wouldn't have taken 3½ years or 3 years, with a calculator and a computer, to compute the parameters of the loss.

Mr. Selby.

Mr. **Selby**. They certainly would know the parameters included in the referral itself. They wouldn't know whether there were something beyond the referral, something further investigation might reveal as to other problems.

Chairman **St Germain**. So you are saying that you didn't send them a complete package.

Mr. **Selby**. That is my understanding.

Chairman **St Germain**. Mr. Patriarca.

Mr. **Patriarca**. Mr. Chairman, we sent a complete package based on the results of our investigations. We didn't hold anything back from them, but it is not atypical of them to take something that they get from us and use it as a kernel to plant a larger tree.

Chairman **St Germain**. Let's not go into the Department of Agriculture. Let's stick with Golden Pacific and the tree that grew in Chinatown.

In reality, in this particular case, and I am not asking about a typical case, I am asking about the Golden Pacific case. If you looked at this one, would there be reasons to believe that the amounts of money involved could be greater than those amounts that the Comptroller's office felt had been misappropriated, embezzeled, et cetera?

Mr. **Patriarca**. Mr. Chairman, there was a telephone conversation well into the investigation where the assistant U.S. attorney said to the examiner who did the investigation "I have also heard that X, Y, and Z may be going on in that bank," and the examiner said "I don't know anything about it. We didn't come across any of that stuff." So there is some reason to believe on our part in this case——

Chairman **St Germain**. Who was the examiner that received the phone call?

Why doesn't Mr. Wiley come up here and join the fireside chat?

Mr. Wiley, did we swear you in?

Mr. **Wiley**. No, sir.

Chairman **St Germain**. Would you spell your name?

Mr. **Wiley**. W-i-l-e-y.

Chairman **St Germain**. Do you swear that the testimony you are about to give is the truth the whole truth and nothing but the truth?

Mr. **Wiley**. I do.

Chairman **St Germain**. Mr. Wiley, you are the gentleman who prepared much of the work that was in the package originally referred to Justice.

Mr. **Wiley**. Yes, that is correct, sir.

Chairman **St Germain**. You have just heard my conversations with Mr. Selby, Mr. Patriarca, and Mr. Alexander, relative to the parameters of the amounts of money that might have been involved in that criminal referral; correct?

Mr. **Wiley**. Yes, sir.

Chairman **St Germain**. Do you have a recollection as to what the parameters of the money were, or did you have an opinion when you referred the case?

Mr. **Wiley**. There were two specific issues relating to stock. One related to a $10,000 transaction and one related to a $33,000 transaction.

The list of allegations that I addressed was rather lengthy, rather varied. Some allegations included dollar amounts, some did not.

Chairman **St Germain**. Now, you subsequently received a phone call from the U.S. attorney's office?

Mr. **Wiley**. Yes, sir.

Chairman **St Germain**. Would you tell us about that phone call?

Mr. Wiley. Yes. I was on assignment helping out in the Southwest, and I received a phone call first from our office——

Mr. Alexander. Mr. Chairman, the substance of the conversation between the assistant U.S. attorney and Mr. Wiley while he was working with the grand jury has been designated 6(e) material by the Department of Justice.

Chairman St Germain. We are now talking about the case that is kaput. It is a noncase.

Mr. Alexander. Yes, sir.

Mr. Keeney. Mr. Chairman, I wonder if I could try to be helpful here?

Chairman St Germain. Mr. Wiley, we will wait until we have an intimate conversation with the Justice Department and maybe they will hop out from under 6(e) for a few minutes and discuss the dollar amounts with us. We will not pursue that particular question now.

Mr. Keeney. Mr. Chairman, may I. My understanding of the conversation to which Mr. Wiley is referring is covered in my statement in a fashion that does not violate 6(e), and I think will probably give you the information that you need.

Chairman St Germain. Fine.

Mr. Keeney. And I will refer you to the statement. It is on page 3, the first full paragraph.

Chairman St Germain. Fine.

Mr. Keeney. We deliberately went through to try and give you the information needed without any violation of the rule.

Chairman St Germain. Thank you.

Mr. Selby, on page 8 you mentioned memorandum of understanding. Would you describe to us what a memorandum of understanding is, and what it's impact is, and why it was used in this particular case.

Mr. Selby. May I have Mr. Patriarca address that?

Chairman St Germain. If you are tired——

Mr. Selby. No, I am not tired. I might give you some misinformation.

Mr. Patriarca. I am tired.

Chairman St Germain. These young kids, they just can't take it.

Mr. Patriarca. Mr. Chairman, a memorandum of understanding is an administrative action taken by this office. It is a derivative of the cease and desist power, the least severe form of the cease and desist power. It is basically a consentual—and I use that term loosely—document where representatives of this office go to the board of directors and say the examination has disclosed a series of problems, and we want a written commitment on the part of the board and the bank to address those problems. The memorandum of understanding is a road map for correcting the problems. It says what the bank will do to correct the deficiencies noted in the examination. The document is signed by the board of directors and by the representative of the Comptroller's Office.

Chairman St Germain. Was that done in this case?

Mr. Patriarca. It was, Mr. Chairman.

Chairman St Germain. It was signed by the board of directors?

Mr. Patriarca. I think the answer is yes.

Chairman **St Germain**. Mr. White, you are the one who is nodding in assent. Are you the one who handled this?

Mr. **White**. No, sir; I did not.

Chairman **St Germain**. Who handled this? Who met with the board of directors?

Mr. **Patriarca**. Mr. Taylor, I believe.

Chairman **St Germain**. Did we swear you in?

Mr. **Taylor**. Yes, you did.

Chairman **St Germain**. Boy, I am glad. I almost disappointed you; right?

Mr. **Taylor**. Not at all.

Chairman **St Germain**. Did you meet with the board of directors on this?

Mr. **Taylor**. I am sure I did.

Chairman **St Germain**. Are you sure you did?

Mr. **Taylor**. Yes, I did.

Chairman **St Germain**. On how many occasions?

Mr. **Taylor**. How many times did I meet with the board of directors?

Chairman **St Germain**. Yes, relative to this memorandum.

Mr. **Taylor**. Relative to this memorandum?

Chairman **St Germain**. This memorandum of understanding, correct.

Mr. **Taylor**. Relative to the specific execution of the document, just once.

Chairman **St Germain**. Just once. They read it, and you explained it to them?

Mr. **Taylor**. Right.

Chairman **St Germain**. Did they understand what it was all about, and what should be done?

Mr. **Taylor**. I had that impression.

Chairman **St Germain**. You had that impression.

Mr. Selby, under the circumstances, are we going to take any action against the board of directors, as fiduciaries of this bank, for not doing anything about these yellow certificates?

Mr. **Selby**. Are we going to now?

Chairman **St Germain**. Yes.

Mr. **Selby**. It is up to the FDIC.

Chairman **St Germain**. Are you going to chat with Bill Isaac and tell him that it would be advisable?

Mr. **Selby**. The FDIC has generally a fairly stern policy about failed banks and the fiduciary responsibilities of directors relative to those failed banks.

Chairman **St Germain**. Don't you agree that that is very important, Mr. Selby?

Mr. **Selby**. I think it is very important.

Chairman **St Germain**. Yes; because they shouldn't just be yes men and yes ladies.

Mr. **Selby**. Absolutely correct.

Chairman **St Germain**. They should be participants.

Mr. Taylor, did you get the impression that these people were going to take actions with this Dr. Chuang, and tell him he had better correct his ways and come into compliance with the requirements of the memorandum of understanding?

Mr. TAYLOR. I don't have intimate recall of the meeting.

Chairman ST GERMAIN. Did you make notes of the meeting for your files after you had the meeting?

Mr. TAYLOR. No, I didn't. I think that somebody who was present at the meeting might have, but I don't know that for a fact. I do recall——

Chairman ST GERMAIN. Do you recall how long you spent at this meeting?

Mr. TAYLOR. Typically, such meetings last anywhere from 45 minutes to 2 hours.

Chairman ST GERMAIN. Do you recall whether any of those people on the board of directors asked you any questions about this?

Mr. TAYLOR. Yes, I am sure they did.

Chairman ST GERMAIN. Are you sure they did?

Mr. TAYLOR. They did.

Chairman ST GERMAIN. Did you feel as though you had an active board of directors?

Mr. TAYLOR. Yes, I did. They asked basic questions. I am trying to recall some of the issues that we were trying to address with this administrative action. I think they had an understanding as to what our concerns were.

Chairman ST GERMAIN. Didn't this memorandum of understanding also contain a suggestion that there be a successor, and that there not be just a one-man operation, Mr. Selby or Mr. Patriarca?

Mr. PATRIARCA. I believe, Mr. Chairman, that the memorandum of understanding required the bank to create a management succession plan.

Chairman ST GERMAIN. This memorandum of understanding was dated when?

Mr. ALEXANDER. December 10, 1980.

Chairman ST GERMAIN. December 10, 1980. Now tell me about the management succession created as a result of this memorandum of understanding. Anyone, even Mr. White. Mr. Taylor, stay right where you are. We have chairs coming out of our ears here.

Mr. WHITE. They did supply us with a plan of succession. The original plan that I am aware of said that Harry Chin, the senior vice president, would provide immediate succession, I am pretty sure the next successor was Theresa. In the event that neither of them was available, I believe the plan provided for going outside the bank, which is pretty standard.

Chairman ST GERMAIN. Mr. Harry Chin, was he still there when you shut the bank down?

Mr. WHITE. Yes, he was.

Chairman ST GERMAIN. What was the date on which that particular plan was submitted; do you recall?

Mr. WHITE. No, sir, I don't.

Chairman ST GERMAIN. Could you submit it for the record if no one else has the information?

Mr. SELBY. Yes, we can submit it for the record.

[The following letter was received from Chairman Volcker of the Federal Reserve Board with attached application of the Golden Pacific National Bank and memorandum of the Federal Reserve Bank of New York regarding the "yellow certificates" issued by the bank:]

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

July 12, 1985

PAUL A. VOLCKER
CHAIRMAN

The Honorable Fernand J. St Germain
Chairman
Committee on Banking, Finance and
  Urban Affairs
House of Representatives
Washington, D.C.   20515

Dear Chairman St Germain:

I am pleased to respond to your letter of June 27 requesting information for use in connection with the Committee's investigation of the failure of Golden Pacific National Bank of New York.

Since Golden Pacific was a national bank whose parent bank holding company commenced operations only in January 1985, the Board has had very little contact with this institution. Our records consist chiefly of an application for permission to establish a bank holding company, which was approved on October 13, 1984, a report of a bank holding company inspection that concluded April 26, 1985, and related correspondence and memoranda. We also have some examination related documents obtained from the Comptroller of the Currency. In accordance with procedures that have been followed in other cases, we understand you are seeking to obtain access to such documents from the Comptroller.

With this letter, I am transmitting a copy of the bank holding company application and of a legal memorandum that addresses the applicability of Regulation D to certain liabilities of Golden Pacific. We are not including confidential portions of the application which consist exclusively of materials related to reports of examination of the Comptroller as these papers, as in the case of the Comptroller's examination reports, may be obtained by the Committee directly from the Comptroller's office. Staff names have also been deleted from the memorandum.

The remaining documents that are responsive to your request consist, for the most part, of information contained in or related to the April 1985 report of bank holding company inspection. As in other cases, the Board is concerned about protecting the confidentiality of the examination process and the privacy of individual bank customers. Accordingly, as in the past, I think the best approach would be for appropriate members of your staff to review such documents at the Board's offices to determine whether they contain any information that would be of use to the Committee. We would delete from the documents that your staff reviews only information identifying staff and bank customers, plus examination report information of the Comptroller, and Board staff will be available to explain any such deletion if necessary.

With the exception of the enclosed memorandum and a paragraph near the end of the April 1985 report of bank holding company inspection, the Board's records do not deal with the yellow certificates. As reflected in the report of inspection, the Board's examiners were informed of the possible existence of this problem in the national bank by the Comptroller's Regional Office in New York after they had completed their inspection of the bank holding company. In addition, in May 1985 the Board's Division of Banking Supervision and Regulation received an anonymous complaint regarding alleged fraudulent activities in the national bank and forwarded the complaint to the Comptroller. A copy of this document and of our transmittal letter to the Comptroller are also enclosed with this letter.

Your staff should contact Mr. William Taylor, Director of the Board's Division of Banking Supervision and Regulation, to make arrangements for review of the Board's records. We trust that the information we will be providing to the Committee will prove useful.

Sincerely,

Paul

Enclosures

RESTRICTED

DOMESTIC BANKING APPLICATIONS DEPARTMENT

TO: Board of Governors

FROM: Federal Reserve Bank of New York */

DATE: July 5, 1984

SUBJECT: Application by Golden Pacific Bancorp, New York, New York ("Applicant"), for the prior approval of the Board, pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956, as amended (the "BHC Act"), to become a bank holding company by acquiring at least 90 percent of the outstanding voting shares of Golden Pacific National Bank, New York, New York ("Bank").

RECOMMENDATION: For the reasons set forth below, the Federal Reserve Bank of New York concludes that possible adverse managerial considerations, involving matters apparently under investigation by the U.S. Attorney for the Southern District of New York, could warrant denial of the application. However, in the absence of any definitive information regarding such investigation or its likely outcome, this Bank is compelled to recommend, preliminarily, that the application be approved based on the facts of record at this time. When additional information is received, we shall forward our definitive recommendation on the proposal to the Board.

DIVISION OF BANKING
SUPERVISION & REGULATION
Jul 5 11 36 AM '84
RECEIVED
CLEARING UNIT

RECOMMENDATIONS

Domestic Banking Applications Department......Preliminary Approval
Legal Department........No Legal Objection to Preliminary Approval

I. SUMMARY OF ISSUES

A significant issue is raised in this proposal because of an ongoing investigation by the U.S. Attorney's Office of certain alleged violations of law, unspecified at this time, by Mr. Kuang Hsung J. Chuang, Chairman and President of Bank who will also be Chairman and President of Applicant. We understand that the investigation is related to referrals made by the Comptroller's Office to the U.S. Attorney's Office in 1981. However, we have no definitive information on the precise nature of the referrals or investigation, nor how the U.S. Attorney's investigation relates to the Comptroller's referrals. We have received oral advice, however, that the unspecified charges are to be brought before a Grand Jury in the very near future. The Board's staff has requested in writing detailed information from the U.S. Attorney's Office, and when such information is received, we shall forward our definitive recommendation of approval or denial of the application to the Board. Particularly in light of the only fair rating of management of Bank and the assessment by the Comptroller's Office that there is no one at Bank available to succeed Mr. Chuang, a conclusion of the investigation in a manner adverse to Mr. Chuang would raise extremely serious questions regarding the managerial resources and future prospects of Applicant and Bank, and in all probability would warrant denial of the application. On the basis of the information currently available to us, we are, however, compelled to recommend approval at this time on a preliminary basis. We do not believe the fact that management is rated only fair, or the evidence described more fully below that Mr. Chuang may have violated the Change in Bank Control Act of 1978, are by themselves sufficient to warrant denial of the application.

The proposal raises no significant financial or competitive issues, and convenience and needs considerations, including CRA factors, are consistent with approval.

II. DELEGATION OF AUTHORITY

Action on the application is not delegable to this Bank pursuant to Section 265.2(f)(22)(iv) of the Board's Rules Regarding Delegation of Authority, since the application raises an issue relating to the managerial factors the Board is required to consider in acting upon the application.

III. DESCRIPTION OF THE PROPOSAL

A. The Institutions

(1) Applicant

Applicant was organized as a Delaware corporation on September 22, 1982 for the purpose of becoming a bank holding company with respect to Bank. It currently is a nonoperating company with no material assets or liabilities. Following consummation of the proposal, Applicant's function will be to hold the shares of Bank, although the application indicates that in the future

BEST COPY AVAILABLE

of primary (and total) capital to total assets is projected to increase to 7.22 percent (Zone 1) and remain in Zone 1 through 1987, primarily through retained earnings and increases in equity capital.

B. Impact of the Proposal

The proposed transaction should have no appreciable impact on Applicant or Bank since it is a reorganization into a bank holding company structure and no acquisition debt will be incurred.

V. MANAGERIAL CONSIDERATIONS

As indicated above, we have been advised orally by the Comptroller of the Currency that it made certain criminal referrals to the Office of the U.S. Attorney for the Southern District of New York in 1981 regarding alleged violations of law by Mr. Chuang, the Chairman and President of Bank and intended Chairman and President of Applicant. We have also been advised orally by the U.S. Attorney's Office of an ongoing investigation that office is conducting of alleged violations of Federal law by Mr. Chuang as a result of the 1981 referral and of information obtained from an unknown additional source. While the precise scope of such investigation is not known at this time, it does raise a potentially serious issue concerning the managerial resources and future prospects of Applicant and Bank. The issue is particularly serious given Mr. Chuang's domination of Bank's management and the apparent absence of a successor to him.

In line with System policy, this Reserve Bank advised Board's staff of what had been learned, and by letter dated June 20, 1984, the Board's Staff requested the U.S. Attorney's

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2/ Peer group consists of all insured commercial banks having assets between $100 million and $300 million, with 1 or more banking offices, and located in a metropolitan area.

Office to (1) confirm whether that Office is in fact investigating Mr. Chuang; (2) advise us as to the nature of any such investigation; and (3) indicate whether Mr. Chuang is aware that he is under investigation. At this time, no written response from the U.S. Attorney's Office has been received. 3/ As a result, we are unable to assess the scope or seriousness of the investigation.

It also appears that Mr. Chuang may have violated the Change in Bank Control Act of 1978 by purchasing sufficient stock of Bank to increase his interest to in excess of 10%. The Comptroller's Office has advised Mr. Chuang by letter dated June 19, 1984 that he "may be" subject to the filing requirement of the Change in Bank Control Act, and has requested that he complete a Notice of Change in Control of a National Bank for the Comptroller's consideration. Counsel to Applicant has advised us that additional stock purchases by Mr. Chuang were exempt from the filing requirements of the Change in Bank Control Act by the grandfather provision in the applicable regulations.

3/ We were advised orally by an attorney at the U.S. Attorney's Office that Mr. Chuang is not likely aware of the investigation, but that he would become aware of it when subpoenas are issued (expected sometime in mid-July 1984). We have also been advised that the investigation is apparently to be brought before a Grand Jury within the near future, but no further advice has been provided, even on an informal basis.

FEDERAL RESERVE BANK
OF NEW YORK

OFFICE MEMORANDUM

DATE July 3, 1985

TO

FROM

SUBJECT Reg. D Questions Raised by "Yellow Certificates" Issued by Golden Pacific National Bank

COPY

This is in response to your request for a memorandum on the question whether so-called "yellow certificates" issued by Golden Pacific National Bank (copy attached) are reserveable time deposits for purposes of Regulation D,[1] and whether they are comparable to obligations of Golden Pacific arising from the rediscount of eligible bankers' acceptances, which obligations the Legal Department previously opined were not subject to reserve requirements.

CONCLUSION

In my opinion it is clear that these yellow certificates are time deposits and subject to reserve requirements, and that, for purposes of Regulation D, they are fundamentally different from the acceptance obligations that were the subject of the Department's previous opinion.

DISCUSSION

A. The Acceptance Obligations

In the previous transaction, Golden Pacific sold eligible acceptances of Golden Pacific to sophisticated customers. The customers placed funds in a custodial account in Golden Pacific's trust department and the entire amount of such funds were invested in eligible acceptances. The customer did not receive any interest from Golden Pacific on the funds placed in the account; the customer's return was confined to what was earned on the acceptances purchased.

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[1] 12 C.F.R. § 204.

COPY

Ms. Motylewski opined[2] that Golden Pacific's obligations arising from the rediscount of eligible acceptances were not "deposits" for purposes of Regulation D. This opinion was evidently based on an express provision in Regulation D[3] and was, in my view, clearly correct.

B. The Yellow Certificates

The "yellow certificates" state that the named person has delivered funds to Golden Pacific and that the principal amount with interest at a specified rate will be paid at maturity upon presentment of the certificate. They are labelled as non-negotiable certificates. Regulation D defines "deposit" to include the "unpaid balance of money . . . received . . . by a depository institution . . . . which is evidenced by an instrument on which the depository institution is primarily liable."[4] In my opinion the yellow certificates, evaluated in accordance with the terms that appear on the face of the certificates, are within the quoted definition of deposit and bear no resemblance to the acceptance purchases that were the subject of the Department's prior opinion.

The last sentence of the certificate provides that it is subject to the terms and conditions of an agreement between the person named on the certificate and the bank. I am not aware of the contents of any such agreement and therefore cannot determine whether the terms of the agreement would alter the opinion expressed above.

The following statements are also typed faintly on the certificate. "Funds held by the bank are not deposits. Therefore are not insured by the FDIC." These statements would not exempt from reserve requirements an obligation that is otherwise a "deposit", with an exception not relevant in this case.5/

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[2] Legal Department memorandum from Joyce E. Motylewski to Legal Files (March 9, 1982).

[3] Section 204.2(a)(1)(vii)(E) excepts from the definition of deposit any obligation of a depository institution that arises from the creation, discount and subsequent sale by a depository institution of its bankers acceptance of the type described in paragraph 7 of section 13 of the Federal Reserve Act [*i.e.*, an eligible bankers acceptance].

[4] 12 C.F.R. § 204.2(a)(1).

GR/pjf gr

Attachment

cc: Messrs. Corrigan
Timlen
Oltman
Schadrack
Thieke
O'Sullivan
Ringamuth
Ms. Motylewski

COPY

5/ Certain subordinated debt obligations are excepted from the definition of deposit if they satisfy a number of requirements, one of which is a statement in boldface type that the obligation is not a deposit and not insured by the FDIC. The yellow certificates do not meet the other criteria, such as that the obligation state on its face that it is subordinated to depositors. In fact, it does not even satisfy the boldface type requirement . See 12 C.F.R. § § 204.2(a)(1)(vii)(C); 217.1(f)(3)(i).

NON-NEGOTIABLE CERTIFICATE

Golden Pacific National Bank

241 CANAL STREET, NEW YORK, N.Y. 10013

12712

19____

$________

THIS CERTIFIES THAT ________________
NAME

HAS DELIVERED TO GOLDEN PACIFIC NATIONAL BANK ________________

VOID

W 6/8/8

PAYABLE TO THE HOLDER ON ________________ WITH INTEREST AT ______ % PER ANNUM FROM DATE.

PAYMENT OF PRINCIPAL AMOUNT WILL BE MADE ONLY UPON PRESENTATION AND SURRENDER OF THIS CERTIFICATE PROPERLY ENDORSED SUBJECT TO ABOVE SPECIFIED TERMS. NO INTEREST WILL ACCRUE HEREON AFTER THE MATURITY DATE HEREOF.

IF THIS CERTIFICATE IS ISSUED TO TWO PAYEES, IT IS UNDERSTOOD AND AGREED THAT THE OWNERSHIP HEREOF SHALL VEST IN THE PAYEES AS JOINT TENANTS WITH RIGHT OF SURVIVORSHIP AND IS PAYABLE TO EITHER OF THEM OR THE SURVIVOR AND THAT EACH PAYEE IS AGENT FOR THE OTHER TO GIVE OR RECEIVE ANY NOTICE, OR TAKE ANY OTHER ACTION AFFECTING THIS CERTIFICATE. THIS CERTIFICATE IS SUBJECT TO THE TERMS AND CONDITIONS DESCRIBED IN THE AGREEMENT BETWEEN THE ABOVE-NAMED CUSTOMER AND THE BANK DATED ________, 19____.

GOLDEN PACIFIC NATIONAL BANK

____
CUSTOMER'S SIGNATURE

____
AUTHORIZED SIGNATURE

Chairman **St Germain**. I am looking at a document from the Federal Reserve, the date of which is July 5, 1984. It says, and I read therefrom,

> While the precise scope of such investigation is not known at this time, it does raise a potentially serious issue concerning the managerial resources and future prospects of applicant and bank. The issue is particularly serious given Mr. Chuang's domination of bank's management and the apparent absence of a successor to him.

Now, this is from the almighty, omnipotent and omniscient Federal Reserve Board. The next page states:

> Summary of Issues: Particularly in light of the only fair rating of management of bank and the assessment by the Comptroller's Office that there is no one at the bank available to succeed Mr. Chuang would raise extremely serious questions regarding the managerial resources and future prospects of applicant and bank.

This is from July of 1984—unless the Fed is misinformed—but July of 1984, is not too long ago, however, that is almost 4 years after the memorandum of understanding was signed. You still didn't have any compliance with the memorandum according to this, Mr. Selby; right?

Mr. **Selby**. From what you're read——

Chairman **St Germain**. That comes down from the Lord, you know, the Federal Reserve.

Mr. **Selby**. I understand. I share your admiration of the Fed.

Chairman **St Germain**. Yes. Well, you know Mr. Barnard said he had a prophetic Bible. Well, that was the Old Testament. We are writing a new one here.

Mr. **Selby**. The New Testament.

Chairman **St Germain**. Yes.

Mr. **Selby**. I know that there was considerable discussion among our examiners about the inability of Dr. Chuang to delegate.

Chairman **St Germain**. Mr. White, during your examinations—you performed the last three or four examinations—did you include in your examination reports criticism of the lack of management's succession and the fact that there was still Dr. Chuang, who was really and truly it?

Mr. **White**. Yes, sir.

Chairman **St Germain**. You did?

Mr. **White**. Yes, sir.

Chairman **St Germain**. As late as when, sir?

Mr. **White**. Right through the last examination.

Chairman **St Germain**. Thank you.

We will be in recess until 2 o'clock.

[Whereupon, at 1:10 p.m., the subcommittee recessed to 2 p.m. of the same day.]

AFTERNOON SESSION

Chairman **St Germain**. I believe that before I was called to a vote, Mr. White, we were discussing the fact that in your reports, as a result of your last three examinations, you did indeed cite the fact that we still had a problem with management and management succession; is that not correct?

Mr. **White**. Yes, sir.

Chairman ST GERMAIN. Mr. White, when did construction start on Sandpebbles?

Mr. WHITE. It was completed in December, I think, of 1983, and they took occupancy some time in 1984.

Chairman ST GERMAIN. When were you aware of the fact that the Golden Pacific Bank was moving into this Chinese palace?

Mr. WHITE. At the August visitation Dr. Chuang had mentioned they were planning to build it, and it was under construction at that time.

Chairman ST GERMAIN. August of what year, sir?

Mr. WHITE. 1983.

Chairman ST GERMAIN. August of 1983. Somehow or another we are going to put this into the hearing record. I am going to ask my staff to bring this—would you bring that down to Mr. White? I am going to ask a young lady on our staff to bring a photo to you, Mr. White.

Is that an accurate photo of the Golden Pacific Bank Building?

Mr. WHITE. Yes, sir.

Chairman ST GERMAIN. You called it the Sandpebbles?

Mr. WHITE. Yes, sir.

Chairman ST GERMAIN. In August of 1983—let's first talk about it a little bit. How many stories is it?

Mr. WHITE. Six.

Chairman ST GERMAIN. Six stories, a rather gorgeous building, is it not?

Mr. WHITE. Yes, sir.

Chairman ST GERMAIN. It is apparent that that is not a pre-fab that went up under low cost.

Mr. WHITE. They imported Taiwanese craftsmen to do part of the construction.

Chairman ST GERMAIN. So we are in the tall cotton here.

Mr. WHITE. Yes, sir.

Chairman ST GERMAIN. You understand that expression, Mr. Selby, right?

Now, Dr. Chuang told you that they were building this building. Did he describe the type of marble that would be used and the personnel that would be involved?

Mr. WHITE. Yes, sir, he did.

Chairman ST GERMAIN. He was rather proud of this building?

Mr. WHITE. Yes, sir, he was.

Chairman ST GERMAIN. His office was where? Was his office located on the top floor?

Mr. WHITE. Third floor, front.

Chairman ST GERMAIN. Third floor, front.

Mr. WHITE. The entire front.

Chairman ST GERMAIN. He didn't spare the horses.

Mr. WHITE. It is a very nice office.

Chairman ST GERMAIN. Correct. Tell me something. He described all this to you. Did it ever occur to you to ask him where the money was coming from to build this building?

Mr. WHITE. Yes, sir, I did.

Chairman ST GERMAIN. What did he tell you?

Mr. WHITE. He told me his wife was the general partner and a Mr. Hsu was a limited partner.

Chairman St Germain. Did you ask to see the lease for the building?

Mr. White. I had a fight with him over the lease.

Chairman St Germain. My question was, did you——

Mr. White. Yes, sir, I asked for the lease.

Chairman St Germain. Did he produce the lease?

Mr. White. Not immediately. It took some time to get it.

Chairman St Germain. But he eventually did provide the lease?

Mr. White. Yes, sir.

Chairman St Germain. It was his wife and Mr. Hsu who built the building, according to his statement.

Mr. White. They were the general partner and limited partner.

Chairman St Germain. Which was which here?

Mr. White. Mrs. Chuang was the general partner.

Chairman St Germain. Which would mean that she had to have come up with some rather substantial backing; right?

Mr. White. Yes, sir.

Chairman St Germain. Is this the same Mrs. Chuang who, in the 1980-81 referral to Justice, was mentioned as being on the payroll of the bank, yet not working at the bank?

Mr. White. Yes, sir.

Chairman St Germain. Were you aware of that fact?

Mr. White. He told me himself.

Chairman St Germain. That she had been?

Mr. White. Accused.

Chairman St Germain. Right. Did it arouse your examiner's curiousity to say to yourself, this is some building that they have? Where did the money really and actually come from?

Mr. White. Yes, sir.

Chairman St Germain. What did you find out?

Mr. White. Nothing.

Chairman St Germain. I appreciate the tersity of your statement. You have such a melodious voice that we want to hear more sir. May I ask you to expound a little more?

Mr. White. I asked him on several occasions for documentation on the financing of this building. He repeatedly told me that the gentleman who was a limited partner had sources of his own, but he didn't specify what they were. He never produced the documents to explain these sources.

Since this was not an affiliated transaction, there was really no way I could force him to produce the documents, and he never produced them. He would always tell me to see Theresa, that she had the documents. Theresa would never be able to find them.

Chairman St Germain. By "documents," you mean the lease?

Mr. White. I wanted to see financial statements, too. I wanted to know where the money came from, how much it cost, everything like that.

Chairman St Germain. In retrospect, had you used those gorgeous teeth of yours and bit into this matter real tight, do you realize that you would have uncovered the yellow certificates way back then?

Mr. White. It is possible.

Chairman St Germain. Well, that is where the money came from; right?

Mr. **White**. I am sure the statements would not have reflected that. I haven't seen them, but I would guess that they would not reflect that.

Chairman **St Germain**. You are being too humble, sir. My information is that you are one of the stars on the horizon at the Comptroller's Office, and that you certainly would have come up with this information.

Are there any other examiners, people here present, who were in that building?

Mr. Taylor, when did you first see this building?

Mr. **Taylor**. As a matter of fact, I have never been in the building. I think I drove by it once in a taxicab when I was going downtown, but I never visited it.

Chairman **St Germain**. You never visited that particular building?

Mr. **Taylor**. No, sir.

Chairman **St Germain**. You were not aware of the fact that they moved their headquarters into this?

Mr. **Taylor**. I was aware of that.

Chairman **St Germain**. You were? Did you ask Mr. White if he had found out anything about where this building came from?

Mr. **Taylor**. No, sir.

Chairman **St Germain**. You weren't curious about it?

Mr. **Taylor**. Not particularly.

Chairman **St Germain**. You were aware of the ratings of this bank?

Mr. **Taylor**. Yes, sir, I was.

Chairman **St Germain**. When you look at a bank whose ratings are as poor as this one—by the way, August of 1983, is that when you first found out about this?

Mr. **White**. That was the first time I went to the bank, sir.

Chairman **St Germain**. Right. Had they moved in there yet, in the new building?

Mr. **White**. No, sir.

Chairman **St Germain**. When did they move in?

Mr. **White**. Approximately January. Actually they started moving some of their operations in in November–December.

Chairman **St Germain**. Of 1983?

Mr. **White**. Yes. We held a board meeting in the building.

Chairman **St Germain**. When was the next examination after that?

Mr. **White**. Summer of 1984.

Chairman **St Germain**. Summer of 1984?

Mr. **White**. Yes.

Chairman **St Germain**. Summer of 1984 examination. Did you look to the books of the bank to see how much they were paying on their lease?

Mr. **White**. Yes, sir, I did.

Chairman **St Germain**. How much were they paying on their lease?

Mr. **White**. $840,000 a year.

Chairman **St Germain**. How much?

Mr. **White**. $840,000 a year.

Chairman **St Germain**. $840,000 a year, and it was being paid to a partnership consisting of Mrs. Chuang and Mr. Hsu, or whatever his name is?

Mr. **White**. Correct.

Chairman **St Germain**. Mr. Selby, did you ever go to New York to see this glorious edifice?

Mr. **Selby**. No, I did not. Mr. Chairman, our concern when a bank moves into a leased building is not who owns the building nor who financed it nor where the money came from because a lot of banks move into rental buildings.

Chairman **St Germain**. We know that.

Mr. **Selby**. What we are concerned with is the lease and its cost to the bank, considering the operations of the bank and the earnings of the bank, etc.

Chairman **St Germain**. Mr. White——

Mr. **Selby**. We would seldom ask the landlord to supply financial information as to where he got the money to build the building.

Chairman **St Germain**. Wait a minute now. You are dealing with a bank. How much were they paying for rent prior to this?

Mr. **White**. To the best of my knowledge, I don't think they were paying rent. They owned the whole block.

Chairman **St Germain**. They owned the whole block?

Mr. **White**. They owned the building behind the bank. As you see in this picture, there is a sign and so forth.

Chairman **St Germain**. By "they," is that the bank or Mr. Chuang?

Mr. **White**. The bank.

Chairman **St Germain**. The bank.

Mr. **White**. The bank leases the land for the building to the partnership, I believe, for $1 a year.

Chairman **St Germain**. Now for that particular building the lease is $840,000 a year. How much of that building was occupied by Golden Pacific Bank?

Mr. **White**. The first four floors except for a portion of the third floor, which was occupied by Chuang and Associates, his law firm.

Chairman **St Germain**. Chuang? How many floors are there beyond that?

Mr. **White**. Two more, which were empty.

Chairman **St Germain**. And they are empty?

Mr. **White**. They are still empty.

Chairman **St Germain**. Still empty. You see, Mr. Selby, this isn't a case where there is a arm's length transaction. This is a case where Dr. Chuang himself bragged to Mr. White, I guess that is an accurate characterization, of the fact that he was moving into this gorgeous building, imported with Taiwanese help, et cetera, et cetera, and owned by the wife and a certain Mr. Hsu who has sources of funding that Mr. White himself was curious about, curious enough to ask.

Mr. **Selby**. I think that is to Mr. White's credit.

Chairman **St Germain**. I told you he is a rising star.

Mr. **Selby**. That is correct. Even though there was the connection with Mrs. Chuang, however, beyond a certain point, we would have been hardpressed to have gotten any information.

Chairman **St Germain**. If this were a regular bank—but here is one that is under criminal investigation—both the man and his wife, who is a general partner.

Mr. Selby, the natural thing is to ask the questions Mr. White asked.

Mr. **Selby**. I agree.

Chairman **St Germain**. This is not as you describe it——

Mr. **Selby**. I agree.

Chairman **St Germain**. The ordinary thing. We know banks lease buildings.

Mr. **Selby**. Generally, when there is evidence——

Chairman **St Germain**. It has a nice, solid lease for a building—a building is often financed as a result of a lease by a particular financial institution, which is good. However, we are not dealing with your well-run ordinary financial institution that needs a bigger quarters.

This was a monument that a man erected for himself, and as I say, it is too bad that we couldn't have pursued that back then. We might have come up with the yellow certificates and found Mr. Hsu's source of funds.

Mr. **Selby**. We might have and we might not have.

Chairman **St Germain**. Mr. White, what did Dr. Chuang tell you about Mr. Hsu? Was he a stockholder in the bank?

Mr. **White**. Yes. He was the father of one of the directors.

Chairman **St Germain**. The father of one of the directors. And he lives where? He is from the west coast?

Mr. **White**. I believe it is California.

Chairman **St Germain**. Do you know anything else about Mr. Hsu?

Mr. **White**. I believe he is a pharmacist by occupation. That is all I know.

Chairman **St Germain**. He must fill a lot of prescriptions.

Mr. **White**. I guess he was a busy man. I don't know.

Chairman **St Germain**. Because I understand at one point—it seems to me, in the files I read that he had a rather substantial portion of the stock in the bank.

Mr. **White**. The Hsu family, I believe, did, but I don't know if he was in control of that stock.

Chairman **St Germain**. Mr. White, have you seen the one side agreement that has come to light?

Mr. **White**. On the balance sheet liabilities?

Chairman **St Germain**. The one side agreement that purportedly was supposed to accompany the yellow certificates?

Mr. **White**. The side agreement?

Chairman **St Germain**. Right.

Mr. **White**. Yes. I have seen it.

Chairman **St Germain**. There was one. Were you told that none of these side agreements was ever executed?

Mr. **White**. We found no evidence of them being executed.

Chairman **St Germain**. In a conversation with one of the high bank officers, were you not told that none of those side agreements was ever issued?

Mr. **White**. That they were never issued?

Chairman St Germain. I am going to ask that that document be taken down to you. I am trying to be careful here.

Mr. White. I am not sure who wrote this, but I think there is a discrepancy here. One of the bases of the bank's contention that the yellow certificates were not liabilities of the bank was this agreement. I don't know why Theresa made that statement because they told us that they were executing these agreements. Dr. Chuang told me that, so this conflicts with what he was telling me. We did not find the agreements, though.

Chairman St Germain. Dr. Chuang, at this point do you feel his credibility is high? I am talking about Dr. Chuang.

Mr. Patriarca. Mr. Chairman, the statements about the side agreements being executed were made again on the evening of Friday the 21st by Dr. Chuang and counsel for the bank. On the basis of the facts and circumstances before us, we didn't believe it.

Chairman St Germain. That was what I was told or given to understand, that you had a problem with the accuracies of that statement, because if he could have convinced you of that, then you would not have closed the bank down; right?

Mr. Patriarca. If he had convinced us that there were in fact an agency arrangement that was represented by these yellow CD's and that they were not the bank's liabilities, the bank would not have been declared insolvent.

Chairman St Germain. And so we could understand why he was doing his utmost to convince you that these were other than bank liabilities?

Mr. Patriarca. Yes, sir.

Chairman St Germain. I at this point ask unanimous consent to introduce into the record a letter to the Federal Reserve from myself dated July 22, 1985, and a reply from the Federal Reserve dated July 29, 1985 concerning Golden Pacific Bank. Without objection, it is so ordered.

[The correspondence submitted for the record by Chairman St Germain follows:]

FERNAND J. ST GERMAIN, RHODE ISLAND, CHAIRMAN
FRANK ANNUNZIO, ILLINOIS
CARROLL HUBBARD, JR., KENTUCKY
DOUG BARNARD, JR., GEORGIA
JOHN J. LaFALCE, NEW YORK
MARY ROSE OAKAR, OHIO
BRUCE F. VENTO, MINNESOTA
ROBERT GARCIA, NEW YORK
CHARLES E. SCHUMER, NEW YORK
BARNEY FRANK, MASSACHUSETTS
RICHARD H. LEHMAN, CALIFORNIA
JIM COOPER, TENNESSEE
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BART GORDON, TENNESSEE
THOMAS J. MANTON, NEW YORK

U.S. HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS
SUPERVISION, REGULATION AND INSURANCE
OF THE
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
NINETY-NINTH CONGRESS
WASHINGTON, DC 20515

CHALMERS P. WYLIE, OHIO
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MARGE ROUKEMA, NEW JERSEY
DOUG BEREUTER, NEBRASKA
STEVE BARTLETT, TEXAS
TOBY ROTH, WISCONSIN

July 22, 1985

Honorable Paul Volcker, Chairman
Board of Governors
Federal Reserve System
20th & Constitution Ave.,N.W.
Washington, D.C. 20551

Dear Chairman Volcker:

Pursuant to the Subcommittee's inquiry into the examination, supervision and closing of the Golden Pacific National Bank of New York, we request that you provide us with an explanation of the Federal Reserve's normal procedures regarding its consideration of de novo bank holding company applications, as to any pending criminal referrals and for other matters relating to the managerial competence of the applicants.

I would also request specific comment as to when, and the means by which the Federal Reserve was informed of, or found out about the criminal referral made by the Office of the Comptroller of the Currency to the Department of Justice with regard to the Golden Pacific National Bank while the Federal Reserve was considering Golden Pacific Bancorp's application to become a bank holding company.

Furthermore, I would ask that you pinpoint the date, as precisely as possible, of when the "Subsequent Events" portion of the Federal Reserve's Inspection Report of Golden Pacific Bancorp was added to that Inspection Report.

In light of the time remaining before the hearings, I ask that this letter be responded to by July 29, 1985.

Sincerely,

F J St Germain

Fernand J. St Germain
Chairman

FJStG:dTv

BEST COPY AVAILABLE

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

PAUL A. VOLCKER
CHAIRMAN

July 29, 1985

The Honorable Fernand J. St Germain
Chairman
Subcommittee on Financial Institutions Supervision,
  Regulation and Insurance
Committee on Banking, Finance and Urban Affairs
House of Representatives
Washington, D.C. 20515

Dear Chairman St Germain:

Thank you for your letter of July 22 requesting additional information in connection with the Subcommittee's investigation of the failure of Golden Pacific National Bank, New York, New York.

You have asked for a description of the procedures followed by the Federal Reserve System in evaluating the managerial competence of principals of de novo bank holding companies. Section 3(c) of the Bank Holding Company Act of 1956, as amended, requires that, ". . . In every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, ..."

Actions taken by the Federal Reserve System on applications considered under the Bank Holding Company Act are supported by the record on the application developed during the applications processing period. The record consists in part of the application itself which contains certain formal information concerning each of the principals, such as their name, address, principal occupation, percentage of ownership of the bank and the company to be formed, and ownership of shares or positions held in other depository organizations. In addition, the record includes other supplementary information developed by staff relevant to the statutory criteria enumerated in the Bank Holding Company Act. As discussed below, the procedures followed by System staff in supplementing the record of a particular proposal vary with the circumstances of each application.

In those cases where principals of a proposed bank holding company have no previous U.S. banking experience, System procedures require that Board staff supplement information provided in the application by requesting background checks of the individuals involved from law enforcement and other agencies. In addition, where the principals are believed to be known to foreign bank supervisors, Board staff contacts officials of the relevant foreign central bank to request information which may be helpful to the Board in assessing the integrity and competence of the individuals.

More typically, principals of de novo bank holding companies are principals, officers and/or directors, of the bank to be acquired, or other banks. In such cases, where the principals are known by bank supervisors, Federal Reserve staff usually relies on information contained in bank examination reports relating to the competence and integrity of the individuals. In situations where examination reports or other available information raise concerns about the abilities or integrity of relevant individuals, staff contacts bank supervisory officials to obtain additional information and, where appropriate, requests background checks from other agencies. In instances where staff learns of a criminal referral involving a principal of an applicant, staff ascertains all available facts relevant to the referral, including information concerning the basis for the referral and the status of the referral.

You have also requested information on when and how Federal Reserve staff learned of the criminal referral made in 1981 by the Office of the Comptroller of the Currency to the Department of Justice concerning Golden Pacific National Bank. A review of our files indicates that Board staff first learned of the criminal referral from staff at the New York Reserve Bank early in the week of June 11, 1984. The exact date upon which Reserve Bank staff learned of the criminal referral is not evident from the files, but based upon the recollections of the Reserve Bank staff involved in processing the Golden Pacific Bancorp application, it is believed that Reserve Bank staff learned of the criminal referral from staff of the Comptroller's Office after the Reserve Bank accepted the application for processing on June 8, 1984.

In light of the existence of an outstanding criminal referral involving Golden Pacific National Bank, Board staff immediately removed Golden Pacific Bancorp's application from eligibility for approval by the Reserve Bank under delegated authority, and contacted officials at the Comptroller's Office and the Department of Justice to obtain additional information.

The Comptroller's Office was requested to supply information concerning the nature of the referral and any related documentation that might assist the Board in evaluating the application. That documentation was received at the Board on July 6, 1984.

Based upon contacts made in mid-June with Ms. Edna Wells Handy, Assistant U.S. Attorney, Southern District of New York, U.S. Department of Justice, staff learned that an active investigation was underway concerning certain principals of the bank. Pending further notice, staff was requested by the U.S. Attorney's office to take no action on the application, including returning the application, which could alert Golden Pacific National Bank officials to the existence of the investigation.

During the summer of 1984, staff maintained contact with the Comptroller's Office and the U.S. Attorney's office to track the status of the investigation. Because of the investigation and the information received regarding the criminal referral, the Federal Reserve suspended normal processing of the application. Under normal applications processing procedures, bank holding company proposals are generally acted on by the Federal Reserve within 30-60 days after acceptance.

On October 5, 1984, Board staff received a letter dated October 3, 1984, from the U.S. Attorney, Southern District of New York, advising that ". . . this Office has decided to close the investigation of the Golden Pacific National Bank referred by the Office of the Comptroller of the Currency. We have determined that there is insufficient evidence to support any criminal charge against the Bank, or any officer or employee, including Dr. Joseph Chuang and Theresa Shieh." A copy of this letter is enclosed. Based upon this development, and in the absence of any additional adverse information concerning Golden Pacific Bancorp's principals, the application was reactivated and approved on October 12, 1984.

Your letter also requests information concerning when the "Subsequent Events" portion of the Federal Reserve's Inspection Report of Golden Pacific Bancorp was added to the report. Staff of the Federal Reserve Bank of New York responsible for the inspection, which was begun on April 15, 1985, and concluded on April 26, 1985, indicate that the "Subsequent Events" portion was added during the week of June 3, 1985. The report was completed on June 10, 1985.

I hope this information is useful to the Subcommittee. Please let me know if I can be of further assistance.

Sincerely,

Paul A Volcker

Enclosure

U.S. Department of Justice

United States Attorney
Southern District of New York

One Saint Andrew's Plaza
New York, New York 10007

October 3, 1984

DIVISION OF BANKING SUPERVISION
Oct 5 10 [illegible] AM '84
[illegible] CLEARING UNIT

Mr. James I. Garner
Manager
Domestic Bank Holding Company
Activities
Board of Governors
Federal Reserve System
Washington, D.C. 20551

Re: Bank Holding Company Application
of Golden Pacific National Bank

Dear Mr. Garner:

Please be advised that this Office has decided to close the investigation of the Golden Pacific National Bank referred by the Office of the Comptroller of the Currency. We have determined that there is insufficient evidence to support any criminal charge against the Bank, or any officer or employee, including Dr. Joseph Chuang and Theresa Shieh.

Since there will be no further investigation of this matter, there is no longer any need to delay your processing of the Bank's holding company application.

RGW:vg
MC-367/1A

Thank you again for staying that processing during the pendency of our investigation.

Sincerely,

RUDOLPH W. GIULIANI
United States Attorney

By: Edna Wells Handy
EDNA WELLS HANDY
Assistant United States Attorney
Telephone: (212) 791-1933

cc: Pamela Rogers Chepiga, Esq.
Cadwalader, Wickersham & Taft
One Wall Street
New York, New York 10005

Peggy Spillenkothen
Domestic Bank Holding Company
Activities
Board Governors
Federal Reserve System
Washington D.C. 20551

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

RECEIVED
JUL 31 1985
Subcommittee on Financial Institutions

July 31, 1985

Mr. Chris Tow
Committee on Banking, Finance
and Urban Affairs
House of Representatives
Washington, D.C. 20515

Dear Chris:

Enclosed as requested is a copy of the complete History Record of Golden Pacific's overnight reserve account overdrafts. These two pages contain all of the information found on the numerous incomplete History Records that you saw when you reviewed Golden Pacific files at the Board.

It occurs to me that the meanings of some of the entries in the "Reason" column may be unclear to you because of the coding that has been used. Please call me if you desire an explanation of any of these entries.

Sincerely,

Stephen L. Siciliano
Special Assistant to the General Counsel
for Administrative Law

Federal Reserve Bank of New York
Accounting Department

HISTORY RECORD

ACCOUNT NO. 7700-3

NAME OF BANK Golden Pacific National Bank

LOCATION New York, New York

TEL. NO. MR J. Yin, Assitant Comptroller 925-8880
~~Ms. Sha-Li Chi~~ cashier
Mr. Michael Fang-Comptroller

DATE	AMOUNT	REASON
4/21/77	$ 3,679.88	Unanticipated clearing house settlement.
4/22/77	17,464.40	Correspondent error-Irving Trust Company.
4/25/77	100,952.11	Bank not on-line to receive wire transfers. R/A issued by Wire Transfer Division.
4/29/77	10,044.79	Internal error.
5/02/77	2,216.04	Internal error.
5/04/77	2,000.62	Internal error.
5/06/77	7,396.19	Internal error.
6/20/77	2,665.21	Correspondent error-Irving Trust Company.
8/29/77	3,264.57	Internal error.
9/7/77	49.61	Credit not received for Gov. Check on a timely basis. R/A not issued. Amount less than $5,000.
9/8/77	31,731.70	Correspondent error-Irving Trust Company.
9/12/77	27,023.58	Correspondent error-Irving Trust Company.
*8/18/78	8,312.08	Internal Error
* 11/16/78	563,859.80	Correspondent, Irving T/C failed to deliver collateral to cover TT&L deposit balance that was deficient.
*11/17/78	107,495.58	Correspondent error-Irving Trust Co. ($120,000) Letter sent 12/01/78 by J.J. Strick.
* 2/15/79	144,097.01	Internal communications problem.
* 4/13/79	19,322.66	Internal communications problem.
*5/16/79	1,161.63	Internal error.
6/21/79	29$981-157	Error by Check Processing Division. R/A issued
* 7/06/79	182,582.93	Cash deposit not delivered timely to FRBNY. (assessed $76.48)
*7/27/79	217,080.10	Internal error. (Assessed-$93.37)
* 7/30/79	233,491.55	Correspondent error (Assessed-$102.09) Manufacturers Hanover Trust Co. ($900,000.0
* 3/12/80	58,181.55	Internal miscalculation. (waived 50.00)
*7/3/80 ✓	170,104.91	Cash letter received in our Bank too late f credit on 7/3, as anticipated. waived [illegible]
*7/15/80	308,235.95	Expected credit for a MB&B settlement advice ($584,809.13) assessed $84.22

0260-1013

Federal Reserve Bank of New York
Accounting Department

HISTORY RECORD

C/B $450,000 as of 8/16/84

Cashier

ACCOUNT NO. 7700-3

NAME OF BANK Golden Pacific National Bank

LOCATION New York, New York

TEL. NO. (212) 925-8880 Mr. J. Yin- Assistant Compt.
Mr. ~~Michael Fong~~ Compt.

~~[illegible]~~ Investment Officer

DATE	AMOUNT	REASON
8/07/80	$ 197,307.84	Anticipated cash letter credit not received and unanticipated cash letter charges. [illegible]
9/10/80	244,047.10	Error by Ck. Pro. Div.(R/A issued By Cranford.)
9/29/80	5,413,920.70	Unanticipated TT&L withdrawal (assessed-1,479.21)
11/18/80	245,494.25	Error by Ck. Pro. Div. R.A. issued.
12/1/80	208,502.34	Correspondent failed to transfer funds due to internal problems. Assessed $56.97.
*12/3/80	234,522.43	Failure to cover TT&L debit. (assessed $64.08)
*12/16/80	44,519.93	Unanticipated return items. (waived 50.00)
12/17/80	8,[illegible]99.69	Error by Ck. Pro. Div. R/A issued.
1/12/81	68,168.92	Larger than anticipated TT&L maximum Balance Call. (assessed $50.00).
*6/4/81	394,074.03	Unanticipated TT&L call (assessed $107.96).
11/25/81	46,939.24	Error by Ck. Pro. R/A issued. (waived $50.00).
*4/22/82	66,186.26	Internal error (waived $50.00).
*6/14/82	5,084,433.66	Correspondent error and Internal miscalculation. (Assess $2,296.47)
*6/28/82	9,678,036.47	Correspondent Error (Assessed $4,564.81)
7/9/82	7,867,207.[illegible]	correspondent error ($[illegible].93)assessed)
*11/16/82	2,064,684.52	Correspondent error (assessed $662.99)
7/7/83	$1,467,389.64	Correspondent error ($457.74 waived)
*11/25/83	$2,226,797.12	Correspondent error (assessed $695.26
*3/12/84	$17,714.11	Unanticipated Currency Charge ($50,00 waived)
7/06/84	$21,074.45	Error by Currency Services (waived $50.00)
*10/10/84	$1,194,085.97	Internal error (waived $350.70)
3/15/85	$64,967.06	Error by Currency Services (waived $50.00) R/A issued

Chairman St Germain. Gentlemen, would you be kind enough to vacate your seats so that we can have the representatives of the Justice Department join us?

Mr. Selby. Are we being excused, Mr. Chairman?

Chairman St Germain. We may need you for a few more questions. We will do this as expeditiously as possible.

Mr. Selby. I do have a meeting that I am already late for.

Chairman St Germain. Can you leave the rest of your staff here?

Mr. Selby. I can, yes. I can leave the ones that would be most knowledgeable about this. Mr. Patriarca and I need to leave.

Chairman St Germain. Fine.

Mr. Selby. Thank you.

Chairman St Germain. Do we have the two FBI agents here?

Mr. Keeney. Roger Wheeler is with me. He is in the Banking Unit in the headquarters here of the FBI.

[Witnesses sworn.]

Chairman St Germain. Mr. Keeney, you will be allowed to proceed with your statement.

STATEMENT OF JOHN C. KEENEY, DEPUTY ASSISTANT ATTORNEY GENERAL, CRIMINAL DIVISION, DEPARTMENT OF JUSTICE; ACCOMPANIED BY ROGER WHEELER, SPECIAL AGENT, FEDERAL BUREAU OF INVESTIGATION (FBI)

Mr. Keeney. Mr. Chairman, if it is all right with you, I can dispense with the presentation of the statement, just offer it and be available for questions.

Chairman St Germain. Without objection, it is so ordered.

[The prepared statement of Mr. Keeney follows:]

STATEMENT

OF

JOHN C. KEENEY
DEPUTY ASSISTANT ATTORNEY GENERAL
CRIMINAL DIVISION

Mr. Chairman, I appreciate the opportunity to appear here today to discuss the Department of Justice involvement in investigations pertaining to the Golden Pacific National Bank and the Department's relationship with the Office of the Comptroller of the Currency in connection with these investigations. As you know, the Comptroller's office, on December 8, 1981, referred to the Department, specifically to the United States Attorney's office, Southern District of New York, various allegations which had been brought to the attention of the agency by an outside source and on which the Comptroller's office had conducted an inquiry. The inquiry by the Comptroller's office had developed information indicating possible criminal misconduct as well as various allegations of regulatory violations, mismanagement and other improper conduct on the part of officials of the bank. The material furnished focused primarily on the conduct of two management officials and involved allegations of possible violations of the various banking statutes, 18 U.S.C. 1005, 18 U.S.C 1014, and 18 U.S.C. 656 -- as well as violations of the securities laws. The United States Attorney's office in its investigation focused its efforts largely on the following: (1) a $10,000 transaction wherein bank funds were used to purchase stock held by a bank shareholder. The net result here was what amounted to a 43-day interest free loan to the control people in the bank; (2) a similar stock purchase transaction involving about $33,000 which was covered by an overdraft in the account of one of the management personnel; (3) apparent salary payments by the bank to the wife of the president even though she did not work at the bank.

The investigation by the United States Attorney's office terminated without prosecution, the reason being that, while some of these transactions may have constituted misapplication of bank funds under 18 U.S.C. 656 and false entries into the records of the bank in violation of 18 U.S.C. 1005 as well as false loan applications in violation of 18 U.S.C. 1014, it was concluded by the United States Attorney's office that the case lacked prosecutive merit. Even if these allegations could be proven, which would have involved a long and difficult trial, the loss to the bank in the $10,000 and $33,000 transactions was de minimis. With particular reference to the apparent payment of salary to the wife of the president, he explained that this was actually salary payment to him which he had put in his wife's checking account. We were not able to prove otherwise.

Mr. Chairman, I would like to emphasize at this point that even if we were able to establish criminal conduct with respect to the above transactions or any other similar allegations that they are far away from yellow CD's and the type of conduct that the Committee is interested in which ultimately caused the failure of the bank.

Undoubtedly the Committee would be interested in whether the United States Attorney's investigation uncovered evidence of yellow CD's and related conduct that resulted in the closing of the bank within the last several months. While I am constrained by grand jury secrecy requirements with respect to the details, I can say that there was some non-specific information developed along these lines. The information was largely rumor and speculation and provided no leads for further investigation.

The Committee is interested I know in the relationship between the Department of Justice and the bank regulatory agencies particularly the Comptroller of the Currency. As you know, every year there are a large number of referrals from the banking agencies and in particular from the Comptroller of the Currency's office to the various United States Attorneys' offices throughout the country. These cases vary in prosecutive merit and because they are frequently complex, involving misapplication rather than embezzlement, most of them are difficult to prosecute. Largely as a result of the increasing frequency of bank failures in recent years, as demonstrated by the findings of Mr. Barnard's Subcommittee, the Department of Justice has been working with the various United States Attorneys' offices, the bank regulatory agencies, and the Federal Bureau of Investigation to put into place a system that will alert the Department, especially the Criminal Division, to significant cases referred by the agencies which, in the opinion of the referring agency, are not moving as rapidly as the agency believes they should. The details with respect to the procedures that have been put in place are set forth in the document entitled, "Agreements and Recommendations of the Justice Department-Supervisory Agencies Working Group," which I offer for entry in the record of the Committee hearing.

Mr. Chairman, that concludes my statement and I would be pleased to try to answer any questions that the Committee might have.

Mr. **Keeney**. In that connection, I would like to make one point.

Chairman **St Germain**. If you want to emphasize a few areas, please do.

Mr. **Keeney**. The point I wanted to make is that after the hearings that were held by your colleague, Mr. Barnard, and the bank failures that preceded it, the Department of Justice, regulatory agencies, and the FBI got together and worked out procedures whereby it would facilitate and expedite the handling of the various banking referrals.

I have here copies of documents which were executed by the various agencies "Agreements and Recommendations of the Justice Department—Supervisory Agencies Working Group." I would like to offer it, Mr. Chairman, as evidence that the Department of Justice, including the FBI and the banking regulatory agencies are concerned by the issues that you are addressing, concerned about the whole area, and we are trying to do better in the banking law enforcement area.

I offer these for the record.

Chairman **St Germain**. Without objection, they will be entered into the record at this point.

[The material referred to follows:]

AGREEMENTS AND RECOMMENDATIONS OF THE JUSTICE DEPARTMENT - SUPERVISORY AGENCIES WORKING GROUP

This document embodies the areas of agreement and recommendations of the Working Group created in December, 1984, to address problems and promote cooperation toward the goal of improving the federal government's response to white-collar crime in the nation's federally-regulated financial institutions. The Working Group is composed of senior officials of the U.S. Department of Justice Criminal Division, the Federal Bureau of Investigation, the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation and the Federal Home Loan Bank Board. The four named regulators of financial institutions are referred to herein as the "Supervisory Agencies."

After an initial meeting between the Attorney General and other Justice Department officials and the heads of the Supervisory Agencies, an agenda was established and the Working Group was formed to address the matters contained herein. This document represents the results of concerted effort by the Working Group to tackle and resolve issues of major significance relating to the detection, reporting and prosecution of bank-related crimes.

...

The Working Group has focused particularly on white-collar crimes by "insiders" of financial institutions, which have plagued a large number of institutions with resulting large losses to the FDIC and FSLIC insurance funds. In response, the Working Group has improved the entire referral system for suspected bank fraud and abuse, developed avenues for better communications, coordination, and tracking, established new training opportunities, and determined to support certain legislative proposals as set out herein. With improved cooperation overall, the Supervisory Agencies and the Justice Department will be better equipped to respond more effectively to criminal conduct involving the nation's financial institutions. Following this document is a separate summary that elaborates upon certain of the agreements and recommendations contained herein.

The Criminal Referral Process

1. The Working Group recognizes the pivotal role of the referral process in ensuring an effective law enforcement response to crimes involving financial institutions. As envisioned by the Group and set out herein, the referral process is more than simple notification; it is a procedure for notification and continuing interest and coordination in which the Justice Department enlists the help of the Supervisory Agencies to detect and understand suspected crimes, and the Supervisory Agencies regard effective criminal law enforcement as one arm of their own enforcement efforts. This process will be sustained by regular personal

contact between the parties hereto at both the national and local levels, and by a sustained interest in and attention to each other's needs.

2. The Working Group endorses the use of a uniform method for reporting suspected criminal conduct to the U.S. Department of Justice (hereafter "Justice Department" with the understanding that, unless specified otherwise, the term refers to the Department's Headquarters in Washington, D.C., the applicable U.S. Attorneys and the FBI - both Headquarters and District offices.) The Working Group has developed a uniform referral form for this purpose to be used by the Supervisory Agencies and by their regulated financial institutions. The purpose of the referral form is to promote the transfer of complete and accurate information on key points deemed most important by the Justice Department for its assessment and evaluation of possible criminal cases. In connection with the referral form, the following matters also have been agreed upon:

a. The proposed referral form has been designed so that possible crimes involving losses of less than $10,000 and not involving "insiders" may be reported on a "short-form" portion of the referral form so that the numerous cases of teller defalcations involving small amounts of loss can be reported with minimal burden to the preparer.

b. The proposed referral form will be adapted to each Supervisory Agency's particular procedures, and the Agencies will strive to assure uniformity in the form and its instructions in all substantial respects.

c. The Working Group members will work together in an effort to obtain OMB and other required clearances for the referral form's use.

d. The Supervisory Agencies will strive to implement a regulation or other formal policy that requires their regulated financial institutions to make criminal referrals in all cases directly to the appropriate criminal authorities, with copies to their principal Supervisory Agency.

e. The Working Group will be responsible for monitoring each Agency's completion and adoption of the referral form, the referral regulation or policy statement, necessary approvals, and implementation of the form's use, with the goal of having the referral form in use by each of the Supervisory Agencies as soon as practicable.

3. The Supervisory Agencies will establish procedures to review the criminal referrals made by their regulatees and will make referrals directly where (a) the referral made by the financial institution is deemed inadequate, or (b) the suspected criminal conduct discovered by the Supervisory Agencies has not been reported by the regulatee(s).

4. The existence of the referral form shall not prevent a Supervisory Agency from making a more detailed written referral, and shall not prevent referrals by telephone or personal contact in situations where immediate contact of the Justice Department is advisable.

5. When referrals are made by the Supervisory Agencies, they shall be made at an early stage, that is, when the Agencies' representatives first obtain evidence to support a belief

that a crime has been or may have been committed, with allowances for reasonable periods of time for review of the proposed referral under each Agency's established procedures. The referral of suspected criminal conduct shall in no way restrict the Supervisory Agencies from continuing their own examinations or investigations into the same conduct in order to carry out their regulatory responsibilities, unless they are requested to cease or suspend such activity by Justice Department representatives in connection with an ongoing criminal investigation or prosecution.

6. Following the dispatch of a criminal referral by a Supervisory Agency, that Agency shall segregate the documents and information relative to the referral or establish procedures to ensure that such documents and information are readily retrievable if the Agency is requested to produce them by the Justice Department.

7. Copies of the following types of referrals shall be forwarded to the Fraud Section of the Justice Department's Criminal Division and to the FBI Headquarters in Washington, D.C. by the Supervisory Agencies: referrals involving losses above an agreed upon amount, referrals disclosing possible crimes of particular significance to the Agencies (including criminal misconduct by "insiders" of financial institutions) or that otherwise are of national impact, and referrals that involve significant criminal conduct in more than one jurisdiction.

8. In connection with significant cases as described in the preceding paragraph, the Supervisory Agencies are encouraged to seek the active assistance of the Fraud Section. Such assistance

should be sought, to the extent practical, at the time of or, in appropriate cases, in advance of the Agencies' referrals to the U.S. Attorneys. The Fraud Section and FBI Headquarters will assist the U.S. Attorneys in their evaluation, investigation, and/or prosecution of such significant cases, and where appropriate, will coordinate multi-jurisdictional cases. In appropriate cases, the Fraud Section also will supply prosecutorial staffing.

9. The Supervisory Agencies will strive to communicate directly with the U.S. Attorneys' offices about significant criminal referrals involving their regulated financial institutions. It is understood that oral and written communications follow-up, and coordination are encouraged between the local offices of the Supervisory Agencies and the U.S. Attorneys' and local FBI offices. These parties shall communicate their concerns about particular cases and engage in dialogue to resolve problems. Thereafter, the Justice Department Fraud Section will entertain inquiries, complaints, and "appeals" of declinations by U.S. Attorneys with respect to referrals made by the Supervisory Agencies or their regulated financial institutions on cases believed by the Agencies to be significant.

Coordination, Cooperation and Information-Sharing Between the Working Group Representatives

10. Each of the Working Group members has exchanged information that identifies appropriate points of contact (by name, address and telephone number) for making criminal referrals, for seeking assistance with investigations, and for resolving any problems with coordination. The Justice Department also has identified

individuals in U.S. Attorneys' offices and FBI field offices who are experienced in financial institutions crimes. All Working Group members are responsible for keeping the "contact lists" updated on a reasonably current basis.

11. The Working Group members will actively encourage periodic meetings between representatives of their regional or district offices. For example, the regional management of the Supervisory Agencies are encouraged to get acquainted and maintain contact with the U.S. Attorneys and FBI managers for their region, and to explore whether there are any problems in communications or coordination that can be resolved at that level.

12. The Supervisory Agencies will review current regulations, delegations, and procedures to determine if changes are required to assure expeditious responses to requests by the Justice Department for written materials or for direct assistance by representatives of the Supervisory Agencies. If needed, appropriate changes will be made to such regulations, delegations and procedures.

13. The Working Group members will cooperate fully in the sharing of relevant information, subject only to applicable legal restrictions, and will assist one another in assuring that information so shared may be used by the recipient(s) in appropriate criminal, civil or administrative proceedings.

14. The Justice Department will implement procedures to improve its reporting of information to the Supervisory Agencies. In particular, it is agreed:

a. The disposition of criminal referrals sent to the Justice Department pursuant to paragraph 6 above, shall be reported by the Justice Department to the appropriate Supervisory Agency that forwarded the referral. In addition, U.S. Attorneys will be instructed to notify the referring Supervisory Agency of the disposition of referrals made by such Agency.

b. The Justice Department will instruct the U.S. Attorneys to notify the appropriate Supervisory Agency when indictments and convictions are returned against "insiders" or employees of financial institutions, particularly when such individuals continue to be affiliated with the financial institutions at the time of the indictments or convictions.

c. Information obtained by the Justice Department during criminal investigations will be shared with the appropriate Supervisory Agencies where such information may assist the Agencies in carrying out their regulatory responsibilities, subject only to applicable legal restrictions or where confidentiality is essential to maintain the integrity of a criminal investigation.

15. In order to assist the Justice Department in its execution of the information-sharing described in the preceding paragraph, the Working Group supports an amendment to Rule 6(e) (Fed. R. Crim. P. 6(e)), which would permit the Justice Department to petition the appropriate Court for permission to make available to the appropriate Supervisory Agency(ies) information obtained pursuant to the Grand Jury process that would assist the Agencies in carrying out their regulatory responsibilities.

Tracking of Criminal Referrals and Investigations and Information Systems

16. The Justice Department Fraud Section will develop a tracking system to monitor significant criminal referrals and investigations involving federally regulated financial institutions:

a. This tracking system will be initiated by inputting those referrals of which copies have been sent directly to the Fraud Section pursuant to Paragraph 7 above.

b. Information from the Fraud Section's tracking system will be shared with the Supervisory Agencies, subject only to applicable legal restrictions.

17. The FBI will input all of the Supervisory Agencies' and regulated financial institutions' criminal referrals on its FOIMS computer system. Consistent with applicable legal restrictions and the need to maintain confidentiality concerning certain ongoing criminal investigations, the FBI will share information from the FOIMS system with the Supervisory Agencies.

18. Pursuant to previous agreements between the Supervisory Agencies, criminal referrals and other information about individuals are being shared by and among the Supervisory Agencies. The Agencies have agreed to coordinate this process in connection with their respective processes of computerization of information and to make such information available to one another and to Justice Department representatives upon request, subject only to applicable legal restrictions.

Training

19. The Working Group agrees to coordinate and share training courses and other training resources in the area of white-collar crimes involving financial institutions. In particular:

a. The FBI has agreed to make at least 30 slots available for training examiners or other employees of the Supervisory Agencies in a special "Bank Failure In-Service" course, which will be presented in Quantico, Virginia, during July 1985. The FBI also will present regional training programs in which the Supervisory Agencies will participate in 1986. All such training by the FBI will focus on investigative techniques and problems in cases involving financial institutions.

b. The Supervisory Agencies will explore with the Federal Financial Institutions Examination Council ("FFIEC") whether it will assume responsibility for presenting a white collar crime course in a form similar to that currently presented by the Office of the Comptroller of the Currency ("OCC"). The Working Group members will encourage the FFIEC to present such a training course, which will be available to representatives of the Supervisory Agencies and the Justice Department.

c. While the FFIEC is considering the establishment of the white collar crime course, and/or in the event that such a course is not established by the FFIEC, the OCC will continue to make slots available to the other Supervisory Agencies and the Justice Department in its "White Collar Crime Seminar" given periodically during each year.

d. The Justice Department will develop a training course (or a segment of a course) for Assistant U.S. Attorneys that focuses on the investigation and prosecution of white collar crime involving federally-regulated financial institutions, and will strive to make slots available to the Supervisory Agencies for appropriate representatives to attend.

The Right to Financial Privacy Act

20. The Working Group has agreed to support a clarifying legislative amendment to the Right to Financial Privacy Act of 1978 ("RFPA") (12 U.S.C. § 3401 *et seq.*) relative to transferring information to law enforcement authorities. The amendment endorsed by the Working Group is one that would permit the transfer of financial information lawfully in the possession of one government authority (such as a Supervisory Agency) to another government authority (such as the Justice Department) for a law enforcement purpose within the jurisdiction of the receiving authority, without notice to the customer.

21. The Justice Department has found that the RFPA notices to customers can be damaging to the conduct of criminal investigations. Therefore, until a clarifying amendment is enacted the Supervisory Agencies will implement procedures to ensure that criminal referrals are made in a manner that does *not* require notices to customers. Accordingly, it is anticipated that, in some instances, referrals may omit the names of significant suspects or

witnesses and/or copies of supporting documentation from protected customers' records. In such cases the Justice Department will utilize Grand Jury subpoenas to compel production of the omitted information from the Supervisory Agencies or directly from their regulated financial institutions.

22. The Working Group will, by written request to the Justice Department, seek a clarification of the May 22, 1979, opinion to Deputy Attorney General Civiletti from the Office of Legal Counsel relative to criminal referrals by the Supervisory Agencies and the requirements of the RFPA concerning customer notices in connection with such referrals.

The Bank Bribery Act

23. The Working Group has addressed numerous questions and concerns relating to the Bank Bribery Act. Pub. L. No. 98-473, § 1107, 98 Stat. 2145 (1984), 18 U.S.C. § 215. In particular, the Group is exploring the possibility of clarifying the scope of the Act by regulations or policy statements issued by the Supervisory Agencies and/or by written guidance from the Justice Department. These matters will continue to be pursued by the Working Group.

Continuation of the Working Group

24. The Working Group unanimously agrees that the communications and cooperation initiated by the Group have been positive and productive. Accordingly, the Working Group will continue to meet on a regular basis to discuss implementation of and any problems related to the matters set out herein and to share

information about specific criminal cases and other matters that may be of interest to all members of the Working Group.

Dated: 2 April 1985

U.S. Department of Justice

By: Edwin Meese III

Federal Bureau of Investigation

By: William H. Webster

Board of Governors of the Federal Reserve System

By: Preston Martin

Office of the Comptroller of the Currency

By: C. Todd Conover

Federal Deposit Insurance Corporation

By: Margaret L. Egginton

Federal Home Loan Bank Board

By:

SUMMARY OF THE RATIONALE FOR CERTAIN OF THE MATTERS SET FORTH IN THE ATTACHED AGREEMENTS AND RECOMMENDATIONS OF THE JUSTICE DEPARTMENT-SUPERVISORY AGENCIES WORKING GROUP

Each of the numbered paragraphs in the attached "Agreements and Recommendations of the Justice Department-Supervisory Agencies Working Group" represents the results of lengthy discussion and consideration by the Group. This summary does not attempt to discuss all of the reasons for the many agreements and understandings that have been reached, but only to expand upon the rationale for certain of the more significant provisions.

The Criminal Referral Process

Paragraphs 1 through 6 of the Working Group Agreements set forth procedures for the use of a uniform criminal referral form by all of the Supervisory Agencies and by the financial institutions regulated by them. The proposed form itself is the product of considerable effort by the Working Group and is designed to relay the type of information deemed most important by the Justice Department for its assessment and investigation of matters referred by the Supervisory Agencies and their regulated financial institutions. The form and its detailed instructions will assure that such referrals are an effective means of notifying criminal law enforcement authorities of suspected offenses. In particular, a referral made by use of the form will identify the suspected criminal violation both in summary and in detailed form by instructing the preparer to give a chronological and complete account of the suspected violations by relating key events and identifying significant documents and potential witnesses.

While the proposed referral form requests considerably more information than often has been provided in the past by the Supervisory Agencies and their regulated financial institutions, it is not intended to delay the referral process while all answers to the questions are gathered. (See Paragraph 5.) In fact, if certain information is not readily available to the preparer, he/she will be instructed to complete the known information and not delay the transmittal of the form. Moreover, the Working Group has designed a referral form that has a "short form" version for referrals that disclose suspected losses under $10,000 that do not involve "insiders". In terms of the volume of referrals received at this time by the Justice Department, such "smaller" crimes represent the overwhelming majority of cases reported. The "long form" version of the referral form will be utilized for all other criminal referrals by the Supervisory Agencies and their regulated financial institutions. (Paragraph 2(a).)

It is recognized that the actual approval of the form by each of the Supervisory Agencies and clearance for its use by OMB will take some time. The Working Group has agreed to cooperate fully in achieving use of the form in a substantially identical format. (Paragraph 2(b), (c), and (e).) Also key to the new referral process will be the implementation of regulations or other formal requirements by each of the Supervisory Agencies that require referrals to be made directly by their regulated financial institutions (Paragraph 2(d)). Only if the referrals made by the financial institutions are inadequate or if a referral has not been made by an institution, will the Supervisory Agencies make the referral directly (Paragraph 3), its being understood that the Supervisory Agencies will promptly undertake to make referrals themselves in both circumstances, and will not rely on the institutions to do so unless the Agencies are assured that the institutions have made the referrals in a satisfactory manner. This procedure was adopted in the interest of administrative economy by the Supervisory Agencies, who believe that their limited resources will better be spent preparing the limited number of referrals on such matters as serious abuse by "insiders" of financial institutions, which referrals are unlikely to be made by the institutions themselves.

The Working Group stresses that the existence of the referral form is not intended to prevent referrals by telephone or personal contact in emergency cases or any situation where the Agency believes that evidence or witnesses could disappear if there are delays in making the referral. (Paragraph 4.) Similarly, the form is not intended to deter the preparation of more detailed referrals as deemed appropriate by the Supervisory Agencies. (Paragraph 4.)

The Working Group considered whether to identify an evidentiary standard for when criminal referrals are to be made, such as when "substantial evidence" of a crime has been discovered, but determined not to do so. Often the preparers of criminal referrals are not in a position to make such determinations, particularly when the suspected crime requires evidence of "willfulness" or an "intent to defraud." These are decisions to be made by Justice Department representatives, who prefer to be advised of the potential crime early when it is first suspected by the Supervisory Agencies so that Justice may develop the facts toward evaluation of a criminal prosecution. Accordingly, Paragraph 5 of the Working Group's Agreements provides that referrals of suspected criminal violations shall be made at an early stage when the Supervisory Agencies first obtain evidence to support a belief that a crime has been or may have been committed.

Of particular note is the role that the Fraud Section of the Justice Department's Criminal Division has agreed to assume in the criminal referral process. (Paragraphs 7 through 9.) The Fraud Section will assist in the Department's consideration and coordination of significant referrals (Paragraph 8), and will entertain inquiries, complaints, and "appeals" by the Supervisory Agencies concerning referrals made to U.S. Attorneys' offices (Paragraph 9).

Coordination, Cooperation and Information-Sharing

Paragraphs 10 through 15 detail areas in which the Working Group has established points of contact (Paragraph 10), encouraged communications at the regional level (Paragraph 11), and agreed to improve their responsiveness to requests for information from one another (Paragraphs 12-15.) Each of the Working Group members currently has legal or procedural restrictions that limit or impede access to one another's records.

Certain of these restrictions are statutory, such as the Right to Financial Privacy Act and Grand Jury Rule 6(e), in response to which the Working Group are supporting legislative amendments. (See Paragraphs 15 and 20.) The Working Group members will assure that any other impediments are only those actually required by law or regulation or necessary to preserve the integrity of information or investigations.

The proposed amendment to Rule 6(e) set out in Paragraph 15 would allow Justice Department representatives to petition the appropriate Court to permit the sharing of information obtained pursuant to the Grand Jury process, with the Supervisory Agencies. Often the receipt of grand jury information could facilitate the Supervisory Agencies' taking administrative or judicial action to prevent harm to financial institutions under their supervision, and/or to prevent or reduce losses to the FDIC or FSLIC insurance funds. This is particularly significant because the Justice Department may be unable to use grand jury information because it does not meet the higher standards required for criminal prosecutions or because the demands of more serious criminal cases postpone action on crimes involving financial institutions. The same information however, could be significant to a Supervisory Agency either to support civil action or to initiate its own examination or investigation of the matter.

Tracking and Information Systems Regarding Criminal Referrals and Investigations

Paragraphs 16 through 18 recite the agreements reached relative to tracking and information systems maintained about the individuals named in criminal referrals. As a result of the agreements reached in this area, all of the Working Group members will have access to valuable information in connection with carrying out their respective responsibilities. For example, the Justice Department now may be able to determine if a suspect referred by one Supervisory Agency also has been referred for a similar crime by another Supervisory Agency in another jurisdiction. (Paragraphs 16-17.) Moreover, a Supervisory Agency may be able to access material information from the Justice Department about individuals filing change in control applications with the Agency. (Paragraphs 14(c), 16 and 17.)

Training

The Working Group has agreed to coordinate and share training courses and other training resources in the area of white collar crimes involving financial institutions. In particular, the FBI already has agreed to present special training for examiners from the Supervisory Agencies, and other courses to be made available to the Working Group members are identified in Paragraphs 19(a) through (d).

The Right to Financial Privacy Act

The restrictions of the Right to Financial Privacy Act ("RFPA") have impeded the criminal referral process in a significant manner over the last several years. The Working Group members are unanimous in their belief that a clarifying amendment with respect to the customer notification requirements of the RFPA should be enacted for the transfer of information to the

Justice Department for its use in conducting a criminal investigation or prosecution. (Paragraph 20.) The current customer notice provisions of the RFPA are ill-advised in two major respects. When customers who are "victims" or who are otherwise uninvolved in the suspected criminal conduct, receive notice under the RFPA upon transfer of their financial records to the Justice Department, it causes unnecessary confusion and concern. However, when the suspected perpetrator of the crime receives such a notice, the Justice Department is concerned that he may take action to destroy evidence or otherwise to cover-up his wrongful conduct.

Because of these problems, the Working Group's Agreements provide that the Supervisory Agencies will implement procedures to ensure that criminal referrals are made in a manner that does not require notice to customers. (Paragraph 21.) This will sometimes result in referrals that omit the names of customers or copies of customer records of "protected" customers when the referrals are made, and which will require the issuance of Grand Jury subpoenas to obtain the omitted information without customer notice. However, the Working Group has agreed to operate under this procedure until and unless a corrective amendment to the RFPA is enacted. This does not mean that referrals will be abbreviated by not explaining fully the suspected crime; rather, the referral will omit identifying the protected customer or financial records only, and will otherwise report all of the pertinent facts requested on the referral form.

Equally important is the fact that the Working Group members have agreed to support a clarifying amendment to the RFPA that would provide an exception to the customer notice requirements for any transfers of information lawfully in the possession of one government authority (*i.e.*, a Supervisory Agency) to another government authority (*i.e.*, the Justice Department) for a law enforcement purpose. (Paragraph 20.)

The Bank Bribery Act

Paragraph 23 points out that the Working Group has addressed and will continue to pursue issues related to the new Bank Bribery Act at 18 U.S.C. § 215.

Continuation of the Working Group

Finally, the Working Group has agreed to continue its existence in order to complete the implementation of the matters agreed upon and to serve as a continuing *ad hoc* committee to discuss problems and to resolve matters of common interest and responsibility. (Paragraph 24.)

Mr. **Keeney**. Now, Mr. Chairman, I am available for the record for whatever questions you have at this point.

Chairman **St Germain**. Thank you.

Let's get to page 3 where you remark:

> Undoubtedly, the committee would be interested in whether the U.S. Attorney's investigation uncovered evidence of yellow CD's and related conduct that resulted in the closing of the bank within the last several months.
>
> While I am constrained by grand jury secrecy requirements with respect to details, I could say that there was some nonspecific information developed along these lines. The information was largely rumor and speculation and provided no leads for further investigation.

Mr. **Keeney**. It was that, Mr. Chairman, people came forward with rumors and speculation, and give us no basis to go places to find things, such as ultimately happened when the yellow CD's were uncovered.

We just had no place to go with them. It was somebody saying "I believe that they are running money into Taiwan," and things like that, for the benefit of the principals of the bank.

Chairman **St Germain**. Were those rumors communicated to the OCC?

Mr. **Keeney**. I think they were aware of the rumors, and they were asked about it, and they had no information, nor did the U.S. attorney's office, to substantiate.

Chairman **St Germain**. So in your opinion, there wasn't enough there to really arouse curiosity as to the yellow certificates?

Mr. **Keeney**. Well, it was just a situation where people were suspicious of the situations or of a particular bank, and they were unable to articulate or demonstrate the reasons for the suspicion. They couldn't point to transactions or anything like that that we could go forward and investigate.

Chairman **St Germain**. Mr. Keeney, the referral was finally made on December 8, 1981, in what the OCC hoped and felt would be a rather complete package. The first subpoena was issued in December of 1982. Was there a great deficiency in the information provided to Justice by that OCC that occasioned the 1-year span of time between the referral and the issuance of the first subpoena?

Mr. **Keeney**. I think it was a rather usual situation where the referral is made and you don't have a completely packaged criminal case in that work has to be done on it.

For instance, the one allegation with respect to Mrs. Chuang being on the payroll, we were able to look into that. That, on its face, looked like a clear-cut violation of law, but the bank chairman insisted that that was his salary payment, and we just weren't able to disprove it. If we had been able to prove it, it would have been a different situation.

Chairman **St Germain**. Other examples?

Mr. **Keeney**. I am sorry?

Chairman **St Germain**. Other examples?

Mr. **Keeney**. Well, there were in addition to the three items that were focused on, there were a number of transactions which involved loans. I am a layman in this area. Loans to insiders that were not supported by additional background information.

The evidence being offered in support of the loan, the collateral being offered, indicated that it was not a—that these were not very provident loans, and that the normal prudent banker probably wouldn't have entered into the loan transactions. We had several of that category, but, as I say, we focused on the three situations, the $10,000, the $33,000, and the so-called salary payments to the chairman's wife.

Chairman **St Germain**. Then the OCC responded to the subpoena that was issued to it in December of 1982, on January 24, 1983, and then the next item we have is a conversation between OCC and Department of Justice, or U.S. attorney's office, on May 2, 1983. Again, there was a 3-month period between the issuance and receipt of the subpoena and the response to the subpoena. Was that an ordinary lag, as well?

Mr. **Keeney**. Let me just explain on the subpoenas and the so-called insufficient—the subpoena that had to be corrected. We are dealing with the Right to Financial Privacy Act, Mr. Chairman, and as I have gone over it a number of times in the past with Mr. Annunzio and Mr. Barnard, that is a real inhibiting factor with respect to expeditious investigations, because under the act insofar as depositor information is concerned, the only way we found to get around, to get the information out of the regulatory agencies is by the issuance of a subpoena. They are precluded from giving us enough specific information in many situations so that we can specifically zero in on the area.

I suspect that that is what one of the problems was here on the issuance of several subpoenas.

Chairman **St Germain**. Were you not given every cooperation by the OCC in this subpoena process?

Mr. **Keeney**. I have no indication whatsoever that we were not given 100 percent cooperation. I heard somebody make—I guess it was Mr. Barnard—a quote from an assistant. If there was any difficulty, I am not aware of it.

It is conceivable that somebody in the process in the Comptroller's office was insisting on a subpoena in order to protect the examiner who would be divulging information, but I must say that on the whole, the relationship of the Department of Justice with the Comptroller's office is very good, and my own relationship with the Comptroller's office is excellent.

I have never had any difficulty. Anytime I have ever asked them for any help with respect to investigation I have gotten it. I realize that I don't get involved in that many cases, but when I do, I get 100 percent cooperation.

I don't get involved that much anymore. I used to be Chief of the Fraud Section, which handles the prosecution of bank fraud cases in the Department of Justice.

Chairman **St Germain**. On page 2, you state that "the allegations, even though prosecutable, would nonetheless constitute a loss to the bank which would be de minimus."

Isn't there another important factor here, in that allegations were against the two principals at that bank, and those two principals were and are until the day of the closing with the bank? Isn't that on added factor?

Mr. **Keeney**. It is an added factor, Mr. Chairman.

Mr. Chairman, I might explain when we are talking about de minimus, I am not talking about $33,000. I do not consider $33,000 de minimus. What I was talking about was the fact that control people in the bank had the use of these two principal sums for a certain period of time, the free use of it.

They didn't have to pay any interest on it, and that when you figure it out is a pretty de minimus sum. When you are talking about a judicial district such as the Southern District of New York, where you have massive cases, this would be very much a de minimus case.

Chairman **St Germain**. Very low on the totem poll.

Mr. **Keeney**. Pardon?

Chairman **St Germain**. Very low on the totem poll.

Mr. **Keeney**. Yes, sir; very low.

Chairman **St Germain**. In dollar amount.

Mr. **Keeney**. We are only talking about a few dollars here, because we are talking about interest on these principal amounts of money.

Chairman **St Germain**. I know, but as I say, the other factor that I am sure was that you were dealing with the two principal officers of the bank.

Mr. **Keeney**. Yes, sir.

Chairman **St Germain**. That which has occurred subsequently demonstrates that they did warrant being watched very closely, but that is hindsight. We can always be brilliant after the fact.

Mr. **Keeney**. Yes, sir.

Chairman **St Germain**. One thing that is bothersome, Mr. Keeney, is that I know no one is ever going to admit that this was a long period of time, December 1981 to October 1984. During that period of time, everything has been cloaked under 6(e) grand jury investigation, Department of Justice investigation, and the Comptroller's office, who said, "Well, we could have taken this action or that action, but indeed we had made this referral, and there was an ongoing criminal investigation and we didn't think we should."

Do you see the dilemma that is encountered here when a criminal referral is made and when it drags on for a lengthy period of time? Other things are going on at that institution that should be corrected, yet they are not corrected.

Many administrative actions that could have and should have been taken, as Mr. Selby admitted earlier today, were not taken. Do you see what our problem is when you sit in that seat there, and view this?

You say my goodness, gracious, they should have what-you-may-call-it so other actions could have been taken administratively.

Mr. **Keeney**. The delay hasn't been helpful, there is no doubt about that, Mr. Chairman.

Chairman **St Germain**. That is lovely. The delay wasn't helpful.

Mr. **Keeney**. But as Mr. Selby and the other representatives of the Comptroller's office testified, they had this bank in a special category and they were looking at it periodically. The thing that brought down the bank was not discovered by the Department of Justice, was not discovered by the Comptroller's office, despite the fact that the bank was being surveilled from a regulatory standpoint, until somebody walked in that had inside information and told them exactly where the corpus delicti was.

Chairman **St Germain**. I must agree with that. Tell me, Mr Keeney, do you have any opinion as to how come the OCC, who, indeed, referred the criminal matters to Justice, to this date, has never been formally advised of the fact?

Mr. **Keeney**. That is a discourtesy. They should have been informed. I agree with that. I think de facto at a certain point they knew that it wasn't going to be prosecuted, but they should have been given the courtesy of a declination, be formally apprised of that effect, and as I say again, they probably should have been advised before the information was transmitted indirectly to them through the Federal Reserve Board.

Chairman **St Germain**. Mr. Keeney, there was a meeting on June 28, 1985, to discuss the opening of the FDIC's claims center, or if not that, to discuss the situation of Golden Pacific Bank, and perhaps the latest criminal referral. At that meeting, Mr. Wexler, from the FDIC, was present. In addition, representatives of the FBI were present. Do you know who asked, requested, or invited the FBI to be at that meeting?

Mr. **Keeney**. My understanding is that they were invited in by the assistant U.S. attorney who was handling the case.

Chairman **St Germain**. Do we have somebody from the FBI here on that?

Mr. **Keeney**. We do. We have Mr. Roger Wheeler.

Chairman **St Germain**. Mr. Wheeler.

Mr. **Wheeler**. Yes, sir.

Chairman **St Germain**. Would you tell us about the attendance of the FBI at that meeting on June 26?

Mr. **Wheeler**. I only know, sir, that there was a meeting held on June 25 with the FDIC to discuss allegations concerning the bank, and a subsequent meeting on June 26 with the U.S. attorney's office to determine whether or not there were prosecutable criminal allegations.

Chairman **St Germain**. The FBI showed up at P.S. 124 as depicted on that gorgeous work of art on the green blackboard. That was on what date? On Friday, June 28, 1985, the claims office was opened by the FDIC at P.S. 124, and there were FBI agents.

There were 18 agents there the first day?

Mr. **Wheeler**. No, sir. Not quite that many.

Chairman **St Germain**. How many were there the first day?

Mr. **Wheeler**. There were 12 agents and several Chinese interpreters.

Chairman **St Germain**. Twelve agents and interpreters. Who asked the FBI to be there?

Mr. **Wheeler**. First of all, let me explain I am a supervisor here at headquarters, who has oversight responsibility for the New York office, so my knowledge is limited to basically what I learned last night in discussions with personnel of the New York office.

Chairman **St Germain**. You were informed of that. There were people here testifying yesterday, who were concerned and intimidated by the presence of the FBI at the claims office.

Mr. **Wheeler**. Yes, sir.

Chairman **St Germain**. So that was communicated to you, and I assume that you discussed that with your agents in New York. Please just tell us what you learned last night.

Mr. WHEELER. OK. In conjunction with the FDIC, the FBI decided that the most judicious way to begin the investigation was to identify who the victims were. The bank's records were so limited that in many instances they had not even the names of the people, let alone any descriptive information, where they could be located after the fact, so they decided that they would establish an offsite office in conjunction with the FDIC examiners, and would attempt to interview these victims when the FDIC was done with them.

Chairman ST GERMAIN. Go ahead.

Mr. WHEELER. In that line, they set up in the school. They had a secondary office. The depositors or the victims that came to the bank who had certificates that were not in order were sent to the school. As I understand it, they were then interviewed by the FDIC examiners. They were then instructed by the examiners that there were FBI agents available if they had any criminal complaints to make, that the FBI was there to take any information that they had.

After they were done with the FDIC examiners, they were met by an agent who identified himself or herself as the case may be, explained what our interest was in this matter, and asked if they would submit to an interview.

Chairman ST GERMAIN. Have you seen—Mr. Dugger is presenting you with the form that the FBI agents had. Have you seen this before?

Mr. WHEELER. Yes. I saw it last night.

Chairman ST GERMAIN. It asks the customer's name, other names used, address, home phone, business address, business phone, citizen, immigration number, passport number. Aren't we getting a little intimate here?

Mr. WHEELER. A little intimidating?

Chairman ST GERMAIN. Intimate.

Mr. WHEELER. Question No. 8 and question No. 9 were removed almost immediately, and the correction on the new interview form that they used would have date of birth and I believe Social Security number in place of No. 8 and No. 9.

Chairman ST GERMAIN. "Do you speak English?" That is a legitmate question?

Who came up with No. 11?

Mr. WHEELER. The agents.

Chairman ST GERMAIN. The agents?

Mr. WHEELER. Yes, sir.

Chairman ST GERMAIN. Are they schooled in banking and investment law?

I ask that for a reason, Mr. Wheeler. One question asks: "Did you purchase an investment certificate from the Golden Pacific National Bank?" If someone said yes, and then signed the form, they precluded themselves from collecting FDIC insurance, because it says "investment certificate." It doesn't say certificate of deposit. It doesn't say yellow certificate. It says "investment certificate." Are you following me? You weren't here yesterday, but one of the big controversies here is whether or not the yellow certificates in question, $15.2 million worth, are covered by FDIC insurance.

Now, as an ordinary citizen who might use a bank, I think you realize how important it is to have your deposit insurance.

Mr. **Wheeler**. Yes, sir.

Chairman **St Germain**. If these deposits are not insured, then these people have lost their life savings, in many instances—so that is why I say this was a rather unusual question for an FBI agent.

I have a lot of respect for FBI agents. Don't get me wrong, but the wording of it bothered me when I first saw it yesterday.

Incidentally, do you have a copy of the revised form?

Mr. **Wheeler**. I have a copy, but it is not with me.

Chairman **St Germain**. Could that be provided to us?

Mr. **Wheeler**. Yes, sir.

Chairman **St Germain**. On the original——

Mr. **Wheeler**. Mr. Keeney has a copy.

Chairman **St Germain**. Great. Could we ask staff to Xerox that?

[The forms submitted by the Federal Bureau of Invesigation follows:]

U.S. Department of Justice

Federal Bureau of Investigation
New York, New York

In Reply, Please Refer to
File No.

In conjunction with my complaint filed with the Federal Bureau of Investigation (FBI) regarding an investment certificate, also known as a "yellow certificate", I am voluntarily furnishing the following information:

1. Customer Name
2. Other names used
3. Address
4. Home telephone Number
5. Business address
6. Business telephone number
7. Citizen yes no
8. DOB: [redacted]
9. SSN: [redacted]
10. Do you speak English?
11. Did you purchase an investment certificate from the Golden Pacific National Bank? yes no
12. From whom did you purchase the certificate?
13. Date purchased?
14. Were you told that no tax forms would be filed? yes no
15. Were you told that no currency transaction reports would be filed? yes no
16. Did you pay a fee or kick back to any bank official? yes no
17. Do you have a copy of the certificate(s)? yes no
18. Certificate number(s)
19. Dollar amount(s)
20. Maturity of certificate
21. Did you sign a trust agreement yes no
22. How did you pay for the certificate?
23. Other information:

Signed

[illegible] with the Federal Bureau of Investigation (FBI) regarding an investment certificate, also known as a "yellow certificate", I am volumtarily furnishing the following information:

1. Customer Name________________________

2. Other names used________________________

____

3. Address________________________

4. Home telephone Number________________________

5. Business address________________________

6. Business telephone number________________________

7. Citizen yes no

8. Immigration number________________________

9. Passport number________________________

10. Do you speak English?________________________

11. Did you purchase an investment certificate from the Golden Pacific National Bank? yes no

12. From whom did you purchase the certificate?

____

13. Date purchased?________________________

14. Were you told that no tax forms would be filed? yes no

15. Were you told that no currency transaction reports would be filed? yes no

16. Did you pay a fee or kick back to any bank official? yes no

17. Do you have a copy of the certificate(s)? yes no

18. Certificate number(s)________________________

19. Dollar amount(s)________________________

20. Maturity of certificate________________________

21. Did you sign a trust agreement yes no

22. How did you pay for the certificate?________________________

23. [illegible]

Chairman **St Germain**. You say that the agents in New York prepared this initial form?

Mr. **Wheeler**. Yes, sir.

Chairman **St Germain**. At whose direction?

Mr. **Wheeler**. I don't know specifically at whose direction. It was decided to use an interview form so that——

Chairman **St Germain**. Decided by whom?

Mr. **Wheeler**. I don't know the answer to that.

Chairman **St Germain**. Under whose jurisdiction were these agents assigned to this project?

Mr. **Wheeler**. It comprised the entire squad of the bank fraud squad in the New York office.

Chairman **St Germain**. But they were requested to do this by whom? Was it the U.S. attorney's office, the FDIC, or the OCC?

Mr. **Wheeler**. It was the agents' own collective decision to use this technique as the starting point for the investigation.

Chairman **St Germain**. But my question now is, who asked the agents to even become involved in this case?

Mr. **Wheeler**. The U.S. attorney's office southern district.

Chairman **St Germain**. The U.S. attorney's office?

Mr. **Wheeler**. They are the ones that authorized—they are the ones that said they would consider prosecution if the allegations could be proved.

Chairman **St Germain**. Which allegations are these?

Mr. **Wheeler**. Concerning the yellow certificate.

Chairman **St Germain**. What allegations concerning the yellow certificate?

Mr. **Wheeler**. That the collection of this money, the unbooking on the bank's official records of the moneys collected, and the disbursements and purchases of the money might be illegal activities by bank personnel.

Chairman **St Germain**. Excuse me while I take a quick look at the new form here. The only change is that they crossed out immigration number and passport number, and then penciled in the Social Security number and——

Mr. **Wheeler**. Date of birth.

Chairman **St Germain**. DOB. So it is actually the same form, they just scratched out two things and substituted two things.

Mr. **Wheeler**. Correct. Only No. 8 and No. 9 were changed.

Chairman **St Germain**. So No. 11 remained the same. "Were you told that no tax forms would be filed?"

Where did that question come from?

Mr. **Wheeler**. The bank fraud squad collectively got together and devised the questions that would be asked in this standard format, so all the interviews would be the same. I don't know which agent came up with this question.

I was informed last evening, though, that the entire form, format and questions, were developed by the agents on that squad.

Chairman **St Germain**. Were you told that no currency transaction reports would be filed? And "did you pay a fee or kickback to any bank official?"

What gave rise to that?

Mr. **Wheeler**. That would be a good question for a prudent agent to ask.

Chairman **St Germain**. It would? For the sale of a certificate of deposit?

Mr. **Wheeler**. There were allegations that the yellow certificates were being used for illegal transactions within the bank, so they want to find out as much as they can about these certificates, and the representations made to them by the bank personnel at the time of the transaction.

Chairman **St Germain**. But as you termed it earlier, you are the victim, and if you are asked the types of questions that you are asked here, then you feel more like the perpetrator than the victim.

That was the sum total of what happened with these people that were interviewed. Now, the evidence yesterday, Mr. Wheeler, was that it wasn't as cozy and friendly as described here and as described by the FDIC people, but rather that people went into the door to the bottom left. They were stopped at the first table and asked for ID's. Next, they were escorted to the claims tables, of which there were three, not two, and then they were told, "Now you have to go see the FBI." They weren't told that you didn't have to, as suggested in yesterday's testimony.

They were escorted to the FBI tables and told where to go next. And these people, let's face it—you are a very gentle person, Mr. Wheeler, but the FBI unfortunately commands an aura. Consequently, when these people were told about the FBI, they started to quake.

You must remember that we are dealing with people that, in many instances, speak very little English. They do know what the FBI is. Whether their impression was accurate or not, they felt they had no choice but to speak with the FBI. Now, did your agents feel as though they had a right to interview everybody?

Let me add this—Everybody that had filed a claim for a yellow certificate?

Mr. **Wheeler**. Did they have a right to?

Chairman **St Germain**. Yes.

Mr. **Wheeler**. They had a right to ask each of them to be a part of an interview, yes.

Chairman **St Germain**. Did they ask them or did they tell them that they wanted to interview them?

Mr. **Wheeler**. They were asked if they would submit to an interview.

Chairman **St Germain**. They were asked if they would submit to an interview?

Mr. **Wheeler**. Yes, sir.

Chairman **St Germain**. What were they told the purpose of the interview was?

Mr. **Wheeler**. To determine whether or not they had any information about any criminal allegations concerning the bank officials to determine who they were, that they might be contacted at a later date after the preliminary interviews were conducted, and to find out what representations had been made to them at the time they purchased their certificate.

Chairman **St Germain**. Let me ask you this, Mr. Wheeler.

Mr. **Wheeler**. Yes, sir.

Chairman **St Germain**. Were these people advised of their Miranda rights?

Mr. **Wheeler**. No, sir.

Chairman **St Germain**. When they were questioned?

Mr. **Wheeler**. They were not.

Chairman **St Germain**. To wit, that the information that might be gained from these interviews could be used against them.

Mr. **Wheeler**. They were not.

Chairman **St Germain**. Shouldn't they have been?

Mr. **Wheeler**. No, sir. At this point they were the victims.

Chairman **St Germain**. I realize that these people aren't in custody. However, if answered the wrong way, some of these people could end up being, not victims, but charged with various things.

Mr. **Keeney**. Mr. Chairman, I might submit that this is a situation you run into all the time in the investigative process. Somebody who at an early stage may appear to be a victim turns out not to be a victim but a culpable party. Might I add a couple of comments, Mr. Chairman?

Chairman **St Germain**. Sure.

Mr. **Keeney**. One, you have a perfectly valid point about the intimidative aspects if the FBI comes to interview anyone of us. We have a great deal of respect for the FBI and we are concerned we might be in difficulty, and that is particularly true with respect to people of foreign backgrounds or who are new in the United States.

It would be true in that context. It would also be true if the FBI went to their homes, so I mean that aspect would not go away, the authority of the FBI, and I might add that if these gentlemen in New York did not take advantage of the opportunity to talk to people who appeared to be victims, people, all of whom they could not identify, if they did not take advantage of that opportunity at that time, Mr. Wheeler would have been critical of them, I would have been critical of them, and I think you would have been critical of them that they weren't doing their investigative job.

Chairman **St Germain**. You need to be careful because I am going to blow that up in a few seconds if you keep it up.

Mr. **Keeney**. You go ahead, Mr. Chairman, but I say it was a very proper procedure that they followed. You complained about us not moving quickly. Here we are moving quickly in trying to gather all of the available evidence.

Chairman **St Germain**. Mr. Wheeler, how many days were the agents there?

Mr. **Wheeler**. They were at the school several days. Then they moved——

Chairman **St Germain**. Don't give me "several." How many days?

Mr. **Wheeler**. I don't know specifically.

Chairman **St Germain**. Was it 4 days or 5 days?

Mr. **Wheeler**. Counting the time that they moved into office, in the interview situation it was approximately 2 weeks.

Chairman **St Germain**. Two weeks?

Mr. **Wheeler**. Yes, sir.

Chairman **St Germain**. Six days.

Mr. **Wheeler**. From June 28 until approximately July 14.

Chairman **St Germain**. From June 28 until approximately July 14, excluding Saturdays, Sundays and holidays.

Mr. **Wheeler**. Saturdays, Sundays and holidays; that is correct.

Chairman **St Germain**. They are no longer at the claims office; are they?

Mr. **Wheeler**. They are not.

Chairman **St Germain**. They were pulled out, but the claims office is still open, functioning and operating?

Mr. **Wheeler**. I don't know.

Chairman **St Germain**. Yes, it is. My point is this, in yesterday's testimony we discovered that the FBI was indeed pulled out after a short period of time, and that the claims were still being processed in the same manner. The gentleman behind you is trying to get your attention, Mr. Wheeler.

Mr. **Wheeler**. Mr. Chairman, if I may add something?

Chairman **St Germain**. Yes.

Mr. **Wheeler**. Part of the reason that the FBI agents were pulled out is because in the initial stages the June 28 through the first several days period, over 150 victims, depositors of the bank, came before the FDIC. That represented about a half of the potential 300-plus certificate holders.

Of those, 70 submitted to a FBI interview, less than half of those that appeared at the school. We have already covered over 50 percent of the potential victims in the first several days, and I don't know whether it was one, two or three.

After that point, the manpower devoted to our participation was cut drastically from 12 down to 2 or 3 or 4 agents. It was subsequent to that then that they were all pulled out of the service center, the claims office.

Mr. **Wylie**. Thank you, Mr. Chairman.

You referred to the people that you questioned in this claims office, which is depicted here on the chart, as victims, and it appears that most of them were. Some might be claimants or they might be referred to as claimants, and I think that the testimony reveals that some of them have been defrauded.

I don't believe there is any question about that. Did you explain to them at that time, when you took them in there to question them, what you were doing? Did the FBI explain what they were going to question them about?

The chairman asked about whether they were read their Miranda rights, which is another question than what I have, but ostensibly at least, from what I gathered yesterday, they were coming into this office to indicate that they had purchased some CD's, and I think that most of them felt at that point that they had been defrauded, and were seeking insurance from FDIC. You had a little different purpose in mind.

Mr. **Wheeler**. Yes, sir.

Mr. **Wylie**. Did you explain to them what it was? I am sorry I was a little late getting here but there is a bill on the floor.

Mr. **Wheeler**. Once they left the FDIC examiners we explained to them who we were, the FBI. In fact, I think most of the agents wore badges on the outside of their jacket pockets so they could be easily identified, and what the FBI's purpose in being there was——

Mr. Wylie. There was a young woman here yesterday who had to speak through an interpreter.

Was there an interpreter present?

Mr. Wheeler. There were several present, yes, sir.

Mr. Wylie. Several present?

Mr. Wheeler. And I may add that each of the people being interviewed was offered the use of an interpreter, whether they spoke English or not, so that we could eliminate confusion if there was any.

Mr. Wylie. Did you respond—were you here yesterday?

Mr. Wheeler. No, sir, I was not

Mr. Wylie. There was some allegations of intimidation, and pushing around, and shoving out doors, and that sort of thing. Did somebody talk to you about that or did the chairman ask you about it?

Mr. Wheeler. I heard what went on yesterday, and I talked with the agents, not the agents, the supervisor and the case agent in the New York office about that issue. I was told by them that these interviews were conducted at all times in a professional, courteous and voluntary manner, that there was no intimidation. That the New York office has received no complaints about any of the agents being tough during these interviews.

Mr. Wylie. Mr. Keeney, is it possible that you could give us a timeframe when your investigations might be completed, and when this case might be brought to trial.

Mr. Keeney. Well, Mr. Wylie, all I can say is that I hope that it goes much more rapidly than the previous referral. I really can't give you an estimate on how long it will take.

They are dealing with a number of people, as has been indicated, who have difficulty in English language, and we are going to have to establish the fraud case. We are going to have to establish that people in the bank mislead these people when they sold these certificates, or whatever they sold, investment certificates, CD's, or whatever they purported to be.

We are going to have to tie that down to individuals responsible for it.

Mr. Wylie. Without naming any names, of course, is there any indication so far that there might be some collusion? The thought was left this morning that it was pretty much a one-man operation or maybe a two-person operation between the doctor and Mrs. Shieh.

Mr. Keeney. That is my understanding. I have read the documentation with respect to, primarily with respect to the '81 referral. I haved looked a little bit at the other material. It did seem to me that it was a two-person operation.

Mr. Wylie. On page 3——

Mr. Keeney. That doesn't mean that the investigation won't develop that there were lesser people in the bank who must have been culpably involved.

Mr. Wylie. On page 3, in reference to the large number of criminal referrals to your office from the OCC, you state that "these cases vary in prosecutive merit, and because they are frequently complex, involving misapplication rather than embezzlement, most of them are difficult to prosecute."

If someone is breaking the law and the regulator provides proof, why is it hard to prosecute?

Mr. **Keeney**. Well, the regulator provides proof, but normally you don't have conclusive proof when the referral is made. They refer when they have indications of criminality. Our burden is, one, probable cause before a grand jury, and then ultimately proof beyond a reasonable doubt in a criminal prosecution. In addition to that, we add a probability of conviction factor in there. If we look at a case and the probability of conviction is say 20 or 25 percent, and it is a busy district, we may well decline on that basis.

Mr. **Wylie**. Thank you. Thank you, Mr. Chairman.

Chairman **St Germain**. Gentlemen, let me say this. Mr. Wheeler——

Mr. **Wheeler**. Yes, sir.

Chairman **St Germain** [continuing.] The bank fraud section of the FBI—how often do you go and sit up in the Chairman's area with FDIC? Is this something new? Is this a new procedure? I have never heard of it before.

Mr. **Wheeler**. I would not say that it is a normal procedure, but in all of the other bank failures that I am aware of, we had a better starting point than we had in this case. There were records that were available to be reviewed, which was not the case here.

Chairman **St Germain**. Would you say that this is out of the ordinary, this procedure? There is nothing wrong with agreeing to the fact——

Mr. **Wheeler**. Out of the ordinary, no. I mean, yes, sir, it is out of the ordinary.

Chairman **St Germain**. We may have a few questions of your agents in New York that you weren't able to answer for us. To wit: Where, in fact, did the format and the questions that are included in this questionnaire come from? Did they come from the U.S. attorney's office? Do you know whether or not the FDIC asked the FBI to move to another location?

Mr. **Wheeler**. I am aware that they did move to another location. I don't know who precipitated it.

Chairman **St Germain**. We may submit a few questions in writing to your agents in New York.

Mr. **Wheeler**. Fine.

[The following letter was received by the subcommittee containing responses to written questions submitted to Mr. Wheeler:]

U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535

September 20, 1985

RECEIVED

SEP 25 1985

Subcommittee on Financial Institutions

Honorable Fernand J. St Germain
Chairman
Subcommittee on Financial Institutions,
  Supervision Regulation and Insurance
Committee on Banking, Finance and
  Urban Affairs
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Attached are responses to questions submitted for the record in connection with the testimony of Special Agent Roger Wheeler on August 1, 1985 before your Subcommittee.

If I may be of any further assistance in this matter, please do not hesitate to contact me.

Sincerely yours,

Floyd I. Clarke

Floyd I. Clarke
Assistant Director
Criminal Investigative Division

Enclosures (3)

Where in fact did the format and the questions that are included in this questionnaire come from?

The questionnaire format and questions for the interviews of the holders of the so called "yellow certificates" were devised by the Agents assigned to the Bank Fraud squad in the FBI's New York Division. The specific term "investment certificate" utilized in question number 11, "Did you purchase an investment certificate from the Golden Pacific National Bank?" also originated with the Agents.

Did the format and questions in this questionnaire come from the U.S. Attorney's Office?

No, the format and questions originated with the Agents assigned to the Bank Fraud squad in the FBI's New York Division.

Did the FDIC ask the FBI to stop conducting the interviews of "yellow certificate" holders at the FDIC claim center?

The FDIC did not request the FBI to stop the interviews at the claim center. The FBI decided to discontinue those interviews after determining that it was no longer an efficient use of investigative resources. The FBI conducted seventy interviews at the claim center between June 28, 1985 and July 15, 1985. Fifty-two interviews (74%), were conducted in the four day period ending July 2, 1985. Over the four day period beginning July 3, 1985 and ending July 9, 1985, the remaining eighteen certificate holders were interviewed. Between July 10 and July 15, 1985, when the interview process was terminated, no interviews were conducted.

Chairman St Germain. Mr. Keeney, we want to thank you for your assistance in this area and for your cooperation. I know that we went through a lot of wringing of the hands and gnashing of the teeth, but it wasn't all that bad; was it?

Mr. Keeney. It wasn't, Mr. Chairman. I thank you for your courtesies.

Chairman St Germain. Mr. Wylie.

Mr. Wylie. I had a motion, Mr. Chairman, but we don't have enough to vote on it now

Chairman St Germain. I would suggest perhaps that——

Mr. Wylie. I want to ask Mr. Keeney about the motion.

Chairman St Germain. Go ahead.

Mr. Wylie. The motion I have, Mr. Keeney, is that the subcommittee issue a subpoena to Dr. Chuang.

Chairman St Germain. We would have to go to the full committee.

Mr. Wylie. That is right, and the full committee. All right.

Chairman St Germain. What I would entertain, Mr. Wylie, is a request from you to me that the subcommittee go to the full committee for the subpoena.

Mr. Wylie. I move that the subcommittee now go to the full committee for further hearings, and I also move that we go to the full committee on a motion that I want to offer at that time.

Chairman St Germain. Relative to a subpoena for Dr. Chaung?

Mr. Wylie. Exactly right.

Chairman St Germain. It is so ordered. We will take it up at the next meeting of the full committee.

I ask unanimous consent to place in the record the various exhibits related to the hearings that have been taking place.

The subcommittee is in recess.

[Whereupon, at 3:10 p.m., the subcommittee adjourned.]

[The following chronologies, exhibits, and miscellaneous materials were submitted for inclusion in the record:]

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
NINETY-NINTH CONGRESS
2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515

June 26, 1985

Mr. H. Joe Selby
Acting Comptroller of the Currency
490 L'Enfant Plaza East, S.W.
Washington, D.C. 20219

Dear Mr. Selby:

It has come to our attention that an apparent criminal violation involving an official or officials of the Golden Pacific National Bank was referred by the office of the Comptroller of the Currency to the Department of Justice in 1981. It is our further understanding that no response was received from the Department of Justice nor, in fact, did the office of the Comptroller of the Currency in any way follow up on its referral.

I would appreciate your immediate response to this inquiry and a full report as to the current status of any such referral and the essential facts involved in the case.

Sincerely,

Fernand J. St Germain
Chairman

FJStG:jSb

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
NINETY-NINTH CONGRESS
2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON DC 20515

June 26, 1985

Mr. H. Joe Selby
Acting Comptroller of the Currency
490 L'Enfant Plaza East, S.W.
Washington, D.C. 20219

Dear Mr. Selby:

It is my intention to have the Banking Finance and Urban Affairs Committee conduct hearings on the problems at the Golden Pacific National Bank of New York and the issues surrounding the closure of the institution last Friday.

In preparation for these hearings I would like an immediate preliminary report from the Office of the Comptroller of the Currency outlining these problems and the specific factors which led to the decision to close the bank.

I trust that we will have the full cooperation of the OCC as we proceed on this inquiry. After reviewing your preliminary report we will follow up with requests for specific data. It is important that we have this report in hand at the earliest possible moment.

Sincerely,

Fernand J. St Germain
Chairman

FJStG:sJs

BEST COPY AVAILABLE

Comptroller of the Currency
Administrator of National Banks

Washington, D.C. 20219

July 16, 1985

Dear Mr. Chairman:

By separate letters dated June 26, 1985, you requested reports on (1) the circumstances surrounding the closing of Golden Pacific National Bank, and (2) the history and current status of an OCC criminal referral made in December of 1981 involving certain individuals at the Bank.

Attached hereto are separate chronologies addressing both requests. As a further aid to the Committee's review of this matter, also enclosed is a third chronology addressing certain practices of the Bank followed in 1981 relating to issuance of certain "non-negotiable" certificates and investment of resulting funds in the Bank's own Bankers Acceptances. The manner of the Bank's accounting for these transactions was criticized in OCC's 1981 Report of Examination. This chronology has been prepared to point out the important distinctions between the 1981 practices and other practices which ultimately led to the failure of the Bank in 1985.

I hope that you will find the attached reports useful in contributing to the Committee's understanding of these matters.

Sincerely,

H. Joe Selby
Acting Comptroller of
the Currency

Attachment

The Honorable Fernand J. St Germain
Chairman
Committee on Banking, Finance
and Urban Affairs
House of Representatives
Washington, D.C. 20515

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THE GOLDEN PACIFIC NATIONAL BANK
NEW YORK, NEW YORK

CHRONOLOGY OF EVENTS LEADING TO THE CLOSING OF GOLDEN PACIFIC NATIONAL BANK

1) On May 16, 1985 a meeting was held in the New York District Office with a confidential informant who provided specific details regarding questionable practices at the bank involving issuance of certain non-booked certificates of deposit ("yellow CD's"). At that time, the informant advised the OCC that the bank concealed the existence of these CD's at each scheduled examination. Based on this information, the OCC concluded that a surprise examination, started without the knowledge of the bank, would be necessary to determine the validity of the informant's allegations. In light of the reliability and significance of this information, the Director for Bank Supervision in the Northeastern District Office notified the New York office of the FDIC on May 16 and the Federal Reserve Board of New York on May 17. In addition, the U.S. Attorney's Office was also notified and encouraged to commence its own investigation (see separate chronology). When the U.S. Attorney's Office declined to launch an investigation, the OCC proceeded with its own plans to conduct a surprise examination (joint with the FDIC) of the Bank and its Loan Production Offices (LPO's) to commence on Monday, June 17, 1985. A pre-exam meeting (including the FDIC) was held in the

N.E. District Office on the morning of June 17. A package of pertinent information was distributed to the examiners, and the strategy was set: verify assets and liabilities. Because the information provided suggested possible fraud on the part of bank insiders, the examiners were armed with administrative subpoenas for bank records and any information relating to "yellow CD's." While subpoenas were served in each of the LPO's, they were not utilized at the main bank since bank management cooperated with OCC requests for various documents and records. However, bank counsel strongly objected to the surprise examination and questioned OCC's authority to demand access to the requested information.

2) At the main office, the examiners obtained access to a manual accounting system for the non-booked certificates (or "yellow CDs") located and maintained in the office of VP/Cashier Theresa Shieh on the 4th floor of the bank. Several examiners, including the FDIC examiner, reviewed the small index cards which represented the bank's manual accounting system. Based on this preliminary control run, it was estimated by the examiners that $30 million existed in these non-booked "yellow CD's". On Tuesday, June 18, the examiners requested and were given access to the actual "yellow CD's", which bank personnel (under examiner supervision) then matched to the index cards. It was found that many of the cards and/or

the certificates had not been pulled out upon payment. The card file system was an extremely poor and burdensome system with which to work; however, bank personnel, working under examiner scrutiny were able to subsequently verify roughly $15.7 million of outstanding "yellow CD's" as of April 30, 1985. Subsequently, an attempt was also made by Ms. Shieh, under examiner supervision, to reconcile the account balance as of June 14 for "yellow CD's" issued or redeemed after April 30. This was never fully completed as Ms. Shieh became involved with managing a liquidity crisis that developed on June 21 which included attempting to establish a borrowing line with a correspondent bank or FRB, and meeting with examiners for various reasons.

3) Each "yellow CD" was labeled as a "Non-Negotiable Certificate" and, except as indicated below, appeared to be similar in all pertinent respects to the banks's standard "blue" CDs. Both versions were issued with fixed maturity dates and fixed rates of return. Each "yellow CD" however, contained the statement "This certificate is subject to the terms and conditions described in the agreement between the above named customer and the bank dated ______________, 19___." This Agreement was purportedly given to each customer, but not one signed copy was found. On Thursday, June 20, the examiners were provided with one blank copy of this "Agreement"

at the main office. In addition, all of the "yellow CD's" were unsigned by bank customers and some blank "yellow CD's" were stamped with the phrase:

> "Funds held by bank are not deposits. Therefore are not insured by the FDIC."

During the examination, the examiners were also able to determine that the bank followed the practice of redeeming the "yellow CD's" out of bank funds, the same as its regular "blue" CD's -- upon demand or at maturity. The examiners also determined that as of June 20, payment of "yellow CD's" had resulted in a $1.8 million overdraft on an account purportedly set up to channel funds generated by the "yellow CD's."

4) On Monday, June 17, Chairman of the Board Chuang claimed to the examiners that "yellow CD" funds were being pooled for customers until enough funds were accumulated to purchase Bankers Acceptances which would provide customers with a better rate of return. (See separate chronology on bank's previously criticized practice of purchasing its own Bankers Acceptances on behalf of bank customers). When asked if any other investments were held, Chuang responded he didn't know and stated that the examiners should ask Theresa Shieh for such information.

5) As the evidence of the existence of these non-booked liabilities was discovered, this information was relayed by the District to the Washington Special Projects Division. Washington FDIC was also notified on June 18 that OCC had critical concerns regarding 1) the possibility of a liquidity crisis and run on the bank if adverse publicity resulted; 2) the possibility of a book insolvency if the $15.7 million in liabilities were not backed by valid bankable assets; and 3) a strong suspicion of fraud perpetrated by senior management, the extent of which was unknown.

6) An examiner from the Federal Reserve Bank of New York briefly visited OCC examiners at the bank on Wednesday, June 19. (A one bank holding company had been formed in January 1985.) Later that day, the Fed examiner reported a determination had been made that a full time FRB examiner presence would be unnecessary provided the OCC maintained open communications with the FRB. The same FRB representative later returned to the bank on Friday, June 21. At that time, this examiner functioned more as an observer and did not become involved in the actual exam procedures.

7) Concurrent examinations of the bank's five Loan Production Offices, which also commenced on June 17, revealed that the LPO's were accepting deposits. While the type of

deposits and amounts were unknown at this time, it was found that cash estimated between $50-70 thousand was held at the Houston LPO. It was subsequently determined that all of the LPO's had in fact solicted and accepted deposits. Further, it was suspected that some or all of the LPO's were also issuing "yellow CD's".

8) Throughout the examination of the bank, the examiners persistently queried bank officials as to what bank assets were acquired with "yellow CD" funds. The existence of any such assets was neither acknowledged nor any supporting documentation produced. On Friday morning, June 21, VP and Cashier Teresa Shieh told the examiners that there were several assets held which were unbooked and which were not in the bank's name. Although the examiners made demands for records to support this statment, no records of these assets were presented to the examiners at the bank. According to Ms. Shieh, the unbooked assets were purported to include investment in:

- a realty firm holding title to the bank's main office
- a corporation with overseas investments
- Bankers Acceptances
- a realty firm involved in construction activities
- subject bank's 1983 stock issuance

9) On Friday morning June 21, discussions were held among the Washington Special Projects and Enforcement & Compliance Division and the District regarding the issuance of a Temporary Order to Cease and Desist (TC&D). At this point in time, concern centered around putting a stop to the issuance of "yellow CD's" and apparent abusive practices in the Bank's LPO's. Failure of the bank was not then considered imminent as the examiners were still in the process of ascertaining the extent of unbooked liabilities and assets. The TC&D was designed to:

- stop the soliciting/accepting of deposits by the LPO's
- stop the accepting of any deposits that were not properly accounted for on the bank's books
- cease withdrawals of funds from the various bank controlled accounts
- address immediate liquidity concerns to include the establishment and maintenance of a borrowing facility at the Federal Reserve Bank discount window and correspondent banks

- provide documentation of the non-booked assets purported to be held

The immediate suspension of Chuang and Shieh were also considered.

10) An emergency meeting was called in the Washington Office at 2:30 P.M. on Friday, June 21 in order to consider issuance of the TC&D. At 2:45, the meeting was interrupted when it was learned that Friday afternoon newspaper articles had just been released in at least two Chinese newspapers which referred to problems at the bank. Consequently, a run had started on the bank. At this time, a meeting was ongoing in the New York District Office with FED and FDIC to update these agencies as to the current findings of the examiner to date. All appropriate parties (including the FDIC and FRB) were immediately contacted in order to prepare for a possible failure due to the bank's inability to meet depositor demands. The special meeting was suspended at that point and all efforts were focused on the developing run on the bank which threatened the bank's viability.

11) The bank's regular Friday banking hours were until 6:00 P.M. and it became questionable whether the bank had sufficient cash to withstand depositor demands/withdrawals.

The bank was instructed to establish funding lines to ensure sufficient supplies of cash to meet depositors' demands. The New York FRB was viewed as the most likely source, however, the bank did not have a line established with FRB.

12) In anticipation of the potential closing of the bank, consideration was given to the two foreign representative offices of the bank. OCC sent telegrams to supervisory officials of these offices alerting them that the OCC might move to close the bank because of liquidity pressures.

13) At 5:00 P.M., OCC examiners reported that long lines had formed at the various bank offices, and that two of the three branches had run out of cash and were giving out cashiers' checks or official checks instead. It was further learned that cash reserves at the main bank were down to approximately $400 thousand dollars. The run on the bank appeared to be escalating and a liquidity failure became a strong possibility. Plans to close the bank continued if liquidity demands did not abate.

14) The FDIC, following previous notification, had examiners on standby to enter the branches for closing. An OCC examiner had already been stationed in each branch.

15) At approximately 3:00 P.M., the bank obtained FRB credit for $2 million in Fed funds from another New York bank. The bank obtained cash for these funds which was subsequently delivered via private courier to the bank's main office with the intent to disburse it to the branch offices the next morning before business hours (10-3 on Saturday). Around 6:00 P.M., reports were received from OCC's examiners in the bank's various offices that the run had apparently subsided. At that point, it appeared that the liquidity insolvency had been averted. However, OCC officials continued to harbor serious concerns that the run would reoccur the next day because of adverse publicity and extensive rumors in the Chinese community.

16) During the afternoon, the District and OCC senior management arranged for a conference with COB Joseph Chuang in the N.E. District Office. COB Chuang was requested to provide information and documentation regarding the supporting the non-booked "yellow CD's" and non-booked assets representing the purported investments made with the "yellow CD" funds. At approximately 8:00 P.M. the meeting commenced with Mr. Chuang and his attorneys together with Theresa Shieh and one Board member.

17) At this meeting, documentation purporting to support the existence of non-booked assets was produced by Mr. Chuang for the first time and included the following:

a) Approximately $1 million in Bankers Acceptances;

b) Some examples of notes receivable issued by a realty firm, purportedly corresponding to a like amount of "yellow CD's"; and

c) Documentation in Chinese which was said to evidence the bank's ownership in condominiums located overseas.

However, with the exception of approximately $1 million in Bankers Acceptances, the documentation produced and statements made by bank management and bank counsel were incomplete and inadequate to establish the value of such assets or the bank's interest in these assets, if any.

18) At the meeting, bank counsel argued, that the bank was acting in an agency capacity for its customers in issuing the "yellow CD's", since the "yellow CD's" were purported to be accompanied and governed by a referenced Agreement stating this agency relationship. It was their contention that the CD's did not therefore represent a liability of the bank and were therefore irrelevant to a determination as to the solvency of the bank.

19) The bank's arguments were considered by OCC legal counsel and discussed among senior management in Washington and the District. It was concluded that the bank's arguments were unfounded for the following reasons:

a) There was no matching of the deposit liabilities with a specific investment as would be typical in an agency relationship;

b) There was no matching of maturities of the deposit liabilities and underlying investment as would be typical in an agency relationship;

c) The interest rate stated on the "yellow CD's" was fixed and guaranteed, (allegedly at a rate higher than the booked "blue CD's") and was not dependent on the level of investment risk associated with investment in purported assets; and

d) The bank honored the "yellow CD's" upon maturity or demand without a corresponding sale or maturity of the purported corresponding investment (asset).

In summary, while the transactions were purported to be agency transactions, the actual manner in which the transactions were conducted did not possess or reflect the usual characteristics of an agency transaction. It was therefore determined by OCC senior management and legal counsel that the "yellow CD's" were not agency transactions but represented liabilities of the bank. Moreover, even if an agency relationship had been intended by the bank and the customer as argued, the Bank had not produced any credible evidence that such Agreements had ever been properly executed by bank customers or affixed to the CD's themselves.

20) Because the bank was unable to produce any tangible records of assets or cash sufficient to cover its unbooked liabilities, the bank was insolvent as bank liabilities exceeded assets. Moreover, there remained a strong likelihood for further depositor runs on the bank the next business day. In view of these considerations, Deputy Comptroller of the Currency Michael Patriarca declared the bank insolvent at 10:20 P.M. on June 21, 1985, and appointed the FDIC as receiver.

21) The main bank and its three branches were immediately turned over to the FDIC. The two LPO's in San Francisco and Los Angeles were also immediately relinquished to the FDIC. Due to the closing time and the location of the other three LPO's they could not be immediately secured, but were entered by the FDIC on the following day, June 22.

THE GOLDEN PACIFIC NATIONAL BANK
NEW YORK, NEW YORK

CHRONOLOGY OF COMMUNICATIONS WITH
THE U.S. ATTORNEY'S OFFICE

The following is a summary of the OCC's interaction with the United States Attorney's Office concerning potential criminal violations at the Golden Pacific National Bank, New York, New York.

1) On December 8, 1981, the New York Regional Office forwarded a criminal referral to the U.S. Attorney's Office for the Southern District of New York. This referral was made pursuant to the results of an OCC investigation conducted in January and February of 1981. This investigation was commenced after certain individuals had come forward with allegations of misconduct involving certain bank insiders. The 1981 criminal referral provided information relative to potential violations of 18 U.S.C. §1001, false statements made to an agency of the United States; 18 U.S.C. §1005, false entries on the books of the Bank; 18 U.S.C. §1014, false loan applications; 18 U.S.C. §656, misapplication of bank funds; and 15 U.S.C. §78j, use of an manipulative and deceptive device in the sale of securities. Information was also referred relative to a potential check-kiting scheme involving violations of 18 U.S.C. §1341 and 18 U.S.C. §1343. OCC records indicate that some

supporting documentation, within the limits prescribed by the Right to Financial Privacy Act, was provided to the U.S. Attorney along with the referral.

2) In December, 1982, the New York Regional Office received a grand jury subpoena dated December 17, 1982 for the Report of Examination prepared by the OCC in 1982. In response to this subpoena, Regional Counsel informed the Assistant U.S. Attorney (AUSA) that the scope of the subpoena was not broad enough to cover reports of examination and other materials relevant to the allegations in the OCC's 1981 referral. Regional Counsel suggested to the AUSA that the scope be broadened to include a request for all such documents. The OCC responded to this subpoena on January 24, 1983.

3) During the first week of May, 1983, the New York Regional Office and the AUSA had a discussion relative to the scope of a new grand jury subpoena dated May 2, 1983. Pursuant to this subpoena, the National Bank Examiner who had been involved in making the original referral to the District Office was authorized by letter dated May 19, 1983 to meet with the AUSA and agents of the grand jury to turn over documents and to assist in explaining the significance of the materials in question. Thereafter, the examiner arranged to meet with a representative of the FBI.

4) The examiner met with a representative of the FBI on June 2, 1983 and provided significant background data as well as the underlying documentation providing the support for the criminal referral. The meeting lasted for approximately two hours and OCC offered its continuing support. As a follow-up to this meeting, the OCC submitted additional documentation through a transmittal letter dated July 6, 1983.

5) On September 27, 1983, a meeting was held between the examiner and the AUSA to discuss the 1981 criminal referral. In a memo dated September 30, 1983, the examiner states "the purpose of the meeting was to assist in the familiarization of specific underlying data arising from the criminal referral." At the meeting, the examiner outlined the specific transactions involved in the referral and again emphasized the OCC's continuing support and cooperation with the U.S. Attorney's office in this matter.

6) On approximately October 26, 1983, the examiner was contacted in Oklahoma (where he had been temporarily assigned to assist the Southwest District) by the AUSA as a follow-up to the criminal referral. In a memo summarizing the contents of this discussion, the examiner indicated that the AUSA passed on comments relating to discussions with other individuals and also informed the examiner of some new allegations. This was

the first time the examiner had been made aware of these new allegations and he informed the AUSA that his earlier investigation had not turned up evidence to corroborate the new evidence recently made available to the AUSA.

The examiner advised the AUSA that he would continue to be available to assist in any way. The examiner subsequently called the New York Regional Office to advise that office of the information presented by AUSA.

7) On December 8, 1983, the AUSA came to the New York Regional Office to discuss her ongoing investigation of the Bank. In a summary memo dated December 15, 1983, the AUSA reported on the status of the previously referred matters and again discussed allegations which went beyond the initial referral. No documentation or sources of information were provided to corroborate these new allegations. The AUSA also indicated her intent to continue the investigation.

8) On December 14, 1983, the United States Attorney served the OCC with another grand jury subpoena covering additional records generated by the OCC since the production of the May 2, 1983 subpoena. All of these materials related to the OCC's criminal referral made in December of 1981. The OCC responded to this subpoena on December 29, 1983.

9) On January 18, 1984, as part of the Barnard Committee's inquiry into the bank regulatory agencies and law enforcement response to bank fraud, the OCC was asked to produce documents and information relative to the December, 1981 criminal referral. By letter dated February 13, 1984, the OCC provided information relative to this matter to the Committee. Thereafter, in a follow-up letter dated July 26, 1984, the OCC advised the Committee that the OCC's New York Office had encouraged the U.S. Attorney's Office to move expeditiously in this matter on a number of occasions. The Department of Justice advised the same Committee on January 5, 1984 and July 20, 1984, that the matter was still under review and no prosecutive opinion had yet been rendered.

10) Thereafter, the AUSA contacted the examiner for purposes of following up on the 1981 criminal referral. The examiner was asked to come to the U.S. Attorney's Office to assist in her preparation of the case.

11) During the summer of 1984, the examiner spent approximately two months reviewing documents and drafting questions to be used before the grand jury. In a letter dated September 19, 1984, the U.S. Attorney's Office requested that the examiner be designated as an agent of the grand jury. By letter dated September 20, 1984, the examiner was authorized by OCC's Regional Counsel to serve as an agent of the grand jury. At this time, the examiner participated in meetings between the

U.S. Attorney's Office and the bank officers. During this period, the focus of the examiner's work with the AUSA centered on three components of the original 1981 referral and was not directed towards any allegations outside of that referral. Subsequent to this work with the U.S. Attorney's Office, the examiner was contacted by the AUSA who indicated that the 1981 referral would probably be dropped. [In preparing its Report for this Committee, OCC only recently learned that in response to inquiries from the Federal Reserve Board to undertake an assessment of a bank-holding company application, the U.S. Attorney formally notified the Federal Reserve Board that the criminal investigation had been dropped in October of 1984. OCC has never been formally advised that the investigation was dropped.]

12) Upon being notified by an informant in May, 1985, of alleged irregularities regarding the bank's issuance of certain certificates of deposit, a staff attorney of the Enforcement & Compliance Division of OCC's Washington Office contacted the U.S. Attorney's office to ascertain the status of the 1981 criminal referral. The staff attorney learned that the AUSA who was handling the case was no longer with the U.S. Attorney's office. He was unable to determine who was currently handling the case and was advised that there was no current case pending and was directed to another AUSA for further discussions. This AUSA advised the staff attorney that

the OCC criminal referral had apparently "fallen through the cracks."

13) Since May of 1985, OCC attorneys have had numerous conversations with the U.S. Attorney's Office regarding the allegations made by the informant and the appropriate response from both the bank supervisory agencies and the law enforcement community. Pursuant to OCC's invitation, the AUSA attended a meeting with the informant at OCC's New York Office on May 29, 1985, during which the informant provided a detailed account as to the alleged irregularities. The informant also produced certain documentation at that time. It was our hope that based on this information, the U.S. Attorney's Office would be willing to issue search warrants or commence an investigation on its own to uncover additional documentation supporting the irregularities alleged by the informant. The OCC was also able to provide the AUSA with a name of another individual who had first-hand information as to the bank's issuance of certificates of deposit and at one point advised the AUSA that this individual would be leaving the country shortly and would have to be talked to as soon as possible or be unavailable for the next month. The issue of immunity for this individual was also discussed. The AUSA felt that the matter could be more appropriately handled by OCC's examiners through the surprise examination that was being developed in the District Office. OCC has reason to believe that the AUSA detemined not to meet with the second informant. Moreover, OCC has no knowledge that

grand jury subpoenas or search warrants for underlying documentation were ever issued. OCC concerns with this matter were also discussed with the Department of Justice.

14) Throughout the months of May and June, the OCC continued to coordinate its examination process with the U.S. Attorney's Office. In view of the decision of the U.S. Attorney's Office not to issue search warrants or subpoenas or begin a formal investigation, the OCC commenced "a surprise examination" at the bank and its five loan production offices. Prior to the examination, the OCC provided its examiners with administrative subpoenas covering relevant documents. The examination of the bank commenced on June 17 at 1:00 p.m. and was coordinated with concurrent examination of the bank's five loan production offices in Boston, Houston, San Fransico, Los Angeles and Chicago. At all times during this examination, the Assistant U.S. Attorney was informed of the procedures being utilized by the OCC and the developments to date.

15) On Wednesday, June 19, 1985, an E&C staff attorney contacted the AUSA for purposes of advising him that the examination had been progressing well and that examiners had uncovered significant information substantiating many of the allegations disclosed by the informant at the previous meeting. The AUSA responded that he felt that it was

appropriate that the OCC continue its process absent any formal law enforcement support at that time.

16) On Friday, June 21, 1985, a Washington staff attorney contacted the AUSA on several occasions to discuss the serious nature of the information being uncovered and the high probability that the OCC might close the bank that afternoon. That same day, the Director of the OCC's Enforcement & Compliance Division in Washington, also expressed concerns to the AUSA that certain individuals involved in these transactions should be immediately contacted by the U.S. Attorney's Office to ensure the integrity of their information and also to make sure that they did not disappear in light of the information turned over to the examiners. At approximately 10:30 p.m. on June 21, 1985, the AUSA was advised that the Comptroller had declared the bank insolvent, that the bank had been turned over to the FDIC as receiver and that the OCC's involvement, in terms of the production of documents and assistance of witnesses, might be limited by the FDIC's presence in the bank. A Washington staff attorney arranged for the AUSA to meet with OCC examiners in New York on Saturday, June 22, 1985, to discuss their findings.

17) Since the closing of the institution, OCC Washington and District personnel have remained in close contact with the

AUSA advising him of the status of our findings, the availability of OCC examiners, and the availability of OCC workpapers and documents.

18) On Friday, June 28, 1985, a Washington staff attorney was contacted by another AUSA from the Southern District and advised that the case had been reassigned to him. The new AUSA was briefed on our efforts to date.

GOLDEN PACIFIC NATIONAL BANK
NEW YORK, NEW YORK

CHRONOLOGY OF GOLDEN PACIFIC NATIONAL BANK
1981 Certificate of Deposit Controversy

1) In a memo dated February 17, 1981, from John A. Fleming, Regional International Specialist, to Wallace S. Nathan, Regional Counsel, Fleming describes in detail the controversy that had arisen during the ongoing examination surrounding the accounting treatment of the bank's creation of Bankers Acceptances. In this memo Fleming states that Golden Pacific's management contends that these Acceptances do not create a deposit relationship, "only its liability under Acceptances executed." Based on his review of this matter, Fleming concluded that "the form provided to the customer (non-negotiable certificate) indicates a deposit relationship rather than a fiduciary relationship (i.e. Golden Pacific National Bank acting as an agent for its customers by accepting their funds in acceptances or Fed funds)." */

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*/ In a conversation with Mr. Fleming on July 2, 1985 concerning the background of this memorandum, he advised as follows:

(a) There was never any doubt that the Bankers Acceptances transactions contemplated by the bank were booked transactions.

(b) In his opinion, the only issue to be decided was whether or not these were loans and deposits subject to the requirements of 12 U.S.C. §84, Reg. D and Reg. Q. There was never any discussion as to whether or not these were liabilities of the bank.

2) In the Report of Examination using financial information as of January 19, 1981, the OCC cited the bank in violation of the following laws, rules and regulations:

(a) 12 C.F.R. 204.2 (computation of reserve)

(b) 12 C.F.R. 217.3 (interest on time and savings deposits)

(c) Interpretive Ruling 7.7410 (pledge of bank assets as security for deposits)

(d) 12 U.S.C. §84

The underlying basis for these citations involved the bank's practice of accepting funds from customers through the issuance of non-negotiable certificates, pooling of those funds in a custodial account and purchasing of the bank's own Bankers Acceptances with said funds. The examiners viewed the customers' funds as deposits and therefore liabilities of the bank. Since the bank had failed to properly account for these funds as deposits of the bank, the bank was cited in violation of the above-referenced regulations which govern the bank's handling of such deposits.

3) In a letter dated July 10, 1981, the bank, through its counsel Cadwalader, Wickersham & Taft, disagreed with certain of the violations cited in the Report of Examination dated

January 19, 1981. In this letter, the bank's attorneys related their understanding that "Pursuant to the terms of a written agreement entered into between the bank and its customers, the bank was accepting the funds as an agent for its customers, and that therefore, the investments were not being treated as assets of the bank." The letter went on to state that the bank's attorneys had been "advised by the Legal Division of the Federal Reserve Bank of New York that, under the facts as we understand them, these funds are not 'deposits' and that, accordingly, the bank is not required to maintain reserves against them."

4) On December 4, 1981, the Federal Reserve Bank of New York sent a letter to the bank in which it noted that the Fed had reviewed the OCC's Report of Examination dated January 19, 1981, and expressed concerns that the bank had not "reflected as deposits certain funds that must be reported on your 'Report of Transaction Accounts, Other Deposits and Vault Cash' (Form 2900) as reservable liabilities." The letter requested that the bank "re-examine the matter and submit revised reports by December 14, 1981 for the periods in error."

5) In a letter dated December 8, 1981, the bank through its counsel advised the Federal Reserve Bank of New York that it disagreed with the Fed's conclusion on this matter. Bank

counsel referred to its July 10, 1981 letter to the OCC and reiterated its claim that it had been previously advised by the Legal Division of the Federal Reserve Bank of New York that the funds in question are not "deposits", and that the Bank is not required to maintain reserves against them.

The letter went on to assert that the Comptroller had not offered any argument contrary to bank counsel's July 10th letter, and the latest report of examination, dated June 20, 1981, had not raised this issue.

6) An internal memorandum generated by the Federal Reserve Bank of New York, dated December 22, 1981, details a discussion which took place between that Office and the OCC's New York Regional Office on December 21, 1981, regarding the above-referenced December 8, 1981, letter from Bank counsel. The memo notes that a representative of the OCC's Regional Office took the position that the practice criticized in the January 1981 Report of Examination "was indeed a violation of Reg. D and that this finding was later confirmed at a meeting of the Comptroller's Regional Counsel." The memo goes on to relate the fact that "the violation was not mentioned in a follow-up examination of Golden Pacific was due merely to the fact that there were no acceptances on the books at the time." The memo also states that the OCC representative "flatly denies

the claim made in Mr. Goldberg's letter that the Comptroller's Office has accepted Golden Pacific's arguments regarding the reservability of the acceptances."

The memo concludes by suggesting further investigation by the Fed as to whether or not the Fed's legal counsel had previously approved of the practice as alleged in Bank counsel's letter. This memo was not found in OCC files but was provided by the Fed in July, 1985.

7) A follow-up internal memorandum generated at the Federal Reserve Bank dated December 28, 1981, once again makes note of the differences of opinion between the Bank and the OCC and asks for a report on the matter. The memo suggests that the Fed conduct an internal review to determine what opinions may have been offered in this area by Fed staff and also checking with the Comptroller's staff on the matter. (OCC has not been able to locate any documents which would indicate the nature of any internal inquiries made of Fed Reserve Bank staff.) The OCC did not obtain a copy of this memo until July, 1985.

8) In a letter dated January 12, 1982, the New York Regional Office advised Thomas Pozarek of the Federal Reserve Bank of New York that the OCC had determined "that the form

provided to the customer entitled "non-negotiable certificate" indicates a deposit relationship rather than a fiduciary relationship (i.e. GPNB acting as agent for its customers by investing their funds in acceptances or federal funds). Consequently, the acceptance is discounted, not rediscounted, and therefore a loan. Based on these facts, the examiner cited the violations of 12 U.S.C. §84 and F.R.B. Regulations D and Q.

9) In a letter dated February 18, 1982, the bank through its counsel scheduled an appointment to meet with the Federal Reserve Bank of New York to discuss this matter further.

10) A letter dated March 1, 1982, from Bank Counsel to Dr. Chuang, offers the opinion that funds accepted by the bank from its customers to purchase "eligible acceptances" on their behalf are not "deposits" provided that bank "acts solely as an agent for its customers." Attached to the letter is a document characterized as an "Agreement" which appears to be similar to the form of "Agreement" first produced for OCC consideration on the evening of June 21, 1985. This letter to the bank does not appear in OCC files but was only recently obtained from the Federal Reserve Bank of New York. There is no indication that it was ever copied to the OCC.

11) Another Federal Reserve Bank memorandum dated March 9, 1982, purports to detail a meeting at the New York Federal Reserve Bank with Dr. Chuang and his counsel on March 2, 1982. According to the memo, at that meeting, Dr. Chuang represented that the OCC has "withdrawn its criticism" concerning the above-referenced deposit issue. [There is no indication in any OCC files that this was in fact the case. To the contrary, the only recorded information on this point indicates that the criticism had not reappeared simply because the bank had discontinued its practice.]

12) In a letter dated August 3, 1982, from the bank to Thomas Taylor, the bank once again raised the issue of the accounting treatment for the Bankers Acceptance transactions. The bank merely reiterates its previous contention that the matter had been under discussion with the Federal Reserve Bank of New York and that the Fed had determined "that the bank's practices and procedures with regard to the investment issue were absolutely proper and in accordance with applicable laws and regulations."

13) No further documentation has been discovered subsequent to August of 1982 on this matter.

SUBCOMMITTEE STAFF CHRONOLOGY OF FDIC RELATED EVENTS AND DOCUMENTS INVOLVING GOLDEN PACIFIC

DATE	EVENT OR DOCUMENT	PARTIES INVOLVED	FDIC EXHIBIT #
1977 to present	Golden Pacific National Bank receives national bank charter from OCC. OCC is primary federal regulator, but as an FDIC insured bank, FDIC reviews all examination reports of federally insured banks.	FDIC, OCC	
May 16, 1985	FDIC in N.Y. notified by OCC of off balance sheet problems of Golden Pacific Nat'l Bank. Exact nature of problems not well known. Ed Lutz of FDIC in N.Y. says no indication then that the bank would have to be closed.	FDIC, OCC	
Week of June 3, 1985	Federal Reserve adds to its Inspection Report of Golden Pacific Bancorp a "Subsequent Events" section advising of allegations against the bank that could result in insolvency. States OCC, and FDIC to conduct surprise examination week of 6/10/85. This information added to the report week of June 3.	Fed. Reserve, FDIC, OCC	FDIC #1
Monday June 17, 1985	OCC begins "surprise examination" of GPNB with 9 or 10 people. FDIC sends 1 person into GPNB with OCC.	FDIC, OCC	
Thursday June 20 1985 4:00 p.m.	Ed Lutz and John Sexton of FDIC in N.Y. at 4:00 pm meeting were advised that the assets to the yellow certificates were not on the books. Prompted questions of: 1) where are the assets and who'll get title, 2)can FDIC acquire title, and 3) value of assets. Ed Lutz states this was his first glimmer that there might be a closing of GPNB.	FDIC	
Friday June 21, 1985 2:00 p.m.	John Sexton of FDIC in NY at 2:00 pm meeting was advised that bank took a turn for the worse--there was a diversion of bank funds. Bank was a 2 person operation. FDIC told of press reports of a bank run. Ed Lutz says FDIC of NY now giving some thought about danger of closing. Ed Lutz of FDIC in NY recommends no purchase and assumption; if closed, do a payout or a transfer of insured deposits of Golden Pacific. The option of doing a purchase and assumption was not recommended because of the unknown contingent liabilities.	FDIC	

Monday June 24, 1985 11:00 a.m.	Ed Lutz of FDIC in N.Y. told to assemble bid materials and a bid list, for June 25 bid meeting. Bid package usually prepared prior to final decision as to whether to do a payoff, or a deposit transfer.	FDIC	
Tuesday July 25, 1985	Letter from Mayor Koch to Chairman St Germain questioning the FDIC's uncertainty about insuring the deposits of persons possibly defrauded by a bank official.	Koch, St Germain	FDIC #2
June 25, 1985	FDIC Board decides on "insured deposit transfer" of GPNB's insured accounts to another institution.	FDIC	
4:00 p.m.	FDIC conducts a "bid meeting" at 4:00 pm pursuant to invitations. FDIC in D.C. said eligible bidders were called, prior to meeting. Ed Lutz of FDIC in N.Y. estimates 30 to 35 banks contacted. 19 banking organizations in attendance, ranging in size from approximately $300 million to over $100 billion. All of the organizations are headquartered or do business in N.Y. State (mainly N.Y. City). Considerations on eligibility are size, financial condition, geographical location and state branching laws. Ed Lutz and Frank Francisco of FDIC in N.Y. say only complaints and concerns at bid meeting were that bidders did not have enough time to assess GPNB. FDIC in N.Y. felt it was a reasonably clean transaction and were trying to "get it back open" for insured depositors ASAP.	FDIC	
Wednesday June 26, 1985 12:00 noon	FDIC takes all bids at deadline of 12:00 noon for transfer of insured deposits of GPNB. Only bid is by Hongkong and Shanghai Banking Corporation for transfer of the approximately $117 million in insured GPNB deposits. Administration of transfer of insured deposits to Hongkong Shanghai to be funded by FDIC. Hongkong Shanghai is paying FDIC a premium of $6,351,276 for right to receive transferred deposits. Hongkong Shanghai will buy loans and other assets of GPNB for about $60 million. FDIC in N.Y. estimated 19,400 accounts transferred, with subsequent heavy depositor/deposit outflow from Hongkong Shanghai, which Hongkong Shanghai estimated	FDIC, Hongkong Shanghai	FDIC #3

	at community meeting on July 24, 1985, as a "20% outflow." But, FDIC in N.Y. estimated it might take a bank up to 10 years to establish such a depositor base.		
June 26, 1985	Letter to William Isaac, FDIC from Chairman St Germain requesting a full report on FDIC issues in GPNB, especially as they relate to insured deposits. Major Koch's letter enclosed. Informs FDIC of intention to conduct hearings.	FDIC, St Germain	FDIC #4
June 26 or June 27, 1985	FDIC called by U.S. Attorney's Office in Southern District of N.Y. (by Frederico Varella or Martin Auerbach) to a meeting where FBI in attendance. FDIC informs FBI of opening of its claims center at P.S. 124 the morning of June 28.	FDIC, U.S. Attorney, F.B.I.	
June 27, 1985	Reply letter to Chairman St Germain from William Isaac, FDIC. Reports transfer of G.P.N.B.'S insured deposits to Hongkong Shanghai. States FDIC has reason to believe some claimants knew funds weren't insured, and speculates that motivation was avoidance of taxes, currency controls, or desire to get higher interest rates — such cases where FDIC would deny coverage.	FDIC, St Germain	FDIC #5
Friday, June 28, 1985 3:00 pm	Hongkong Shanghai reopens the former N.Y. office of GPNB at 3:00 pm FDIC claims office opens up at P.S. 124 in N.Y. Chinatown. FBI on site when FDIC arrives. FDIC office accepting claims from uninsured depositors; yellow certificate holders; persons with deposits at GPNB's loan production offices or its international banking facilities; gold certificate holders; investors in Golden Pacific limited partnership accounts; and general creditors. FDIC advises claimants the option to talk to FBI in a room just outside of exitway. FBI personnel in hallway where exit leads, requesting claimants to answer questions and fill out forms in a room off that hallway. FDIC claims agents estimate that 70% to 80% of yellow CD holders talked with the FBI.	FDIC Hongkong Shanghai, FBI	
Around July 5, 1985	FDIC claims office moves from P.S. 124 to 350 Hudson Street, several blocks further away from Chinatown — P.S. 124 no longer available and FDIC finally able to get month to month lease at 350 Hudson Street.	FDIC,FBI	

	FBI also moves operation here.		
July 11, 1985	FDIC decides that all deposits improperly accepted by GPNB at its loan producion office in 5 cities (Boston, Chicago, Houston, Monterey Park (near L.A.),San Mateo (near S.F.)), except yellow certificate accounts there, are eligible for deposit insurance coverage. FDIC begins actual payout to insured depositors at Boston, Chicago and San Mateo on July 16, 1985. At some of these loan production offices there were FDIC seals insuring all deposits -- yet LPOs by law are not supposed to accept deposits.	FDIC, Loan Production Offices	FDIC #6
July 16, 1985	FDIC "transfers" insured deposits of GPNB's loan production offices in Houston, amounting to $5.1 million to Texas First National Bank in Houston; and in Monterey Park, California (near L.A.), amounting to $2.0 million to Omni Bank in Monterey Park. Since "similar transfer not feasible" for deposits of the 3 other LPOs, FDIC begins paying off insured depositors in Boston ($1.1 million); Chicago ($1.6 million) and in San Mateo ($1.3 million)	FDIC, Loan Production Offices	FDIC #7
Around July 17, 1985	FBI leaves 350 Hudson Street office where FDIC accepting claims.	FDIC, FBI	
July 18, 1985	Letter to William Isaac, FDIC from Chairman St Germain requesting documents.	FDIC, St Germain	FDIC #8
July 23, 1985	As of this date, the number of claims at the FDIC office for yellow CD's is about 162 (not people claiming them, but actual CD's) totalling about $7,086,000, according to claims office personnel. According to FDIC in N.Y., there was a total of 365 yellow CD's outstanding totaling $14,248,000, so roughly 40% of them have been claimed thus far. There are some large yellow CD's in the $200,000 range but many are $10,000 to $20,000. No evidence of any "side agreements" thus far. Only 10 yellow CD's have been stamped, "Funds held by the bank are not 'deposits.' Therefore, are not insured by the FDIC" so far.	FDIC	FDIC #9 FDIC #10

FEDERAL RESERVE BANK OF NEW YORK

FDIC Exhibit # 1

NEW YORK, NEW YORK 10045

DIVISION OF BANKING SUPERVISION & REGULATION
Jun 12 1 29 PM '85
RECEIVED
CLEARING UNIT

Copy for
Board of Governors of the
Federal Reserve System

June 10, 1985

RECE...

BY HAND

Board of Directors
Golden Pacific Bancorp
One Golden Pacific Plaza
New York, New York 10013

Envelope addressed:
c/o Mr. Kuang H. J. Chaung
Chairman of the Board
and President

Dear Board Members:

Enclosed is a copy of our initial report of inspection of your corporation as of March 31, 1985. Please acknowledge receipt by having the printed form (attached to the report under the top cover) signed and returned to us in the envelope provided.

The inspection discloses that the corporation is in fair condition, reflecting a similar condition at Golden Pacific National Bank. Consolidated earnings also are fair primarily the result of below average net interest margins and high occupancy expenses. The return on average assets in 1984 was .41%, well below the peer group average.

The consolidated total capital to total assets ratio of 6.11% at inspection date is below the prescribed minimum guideline of 7% for Zone 1. We understand that the corporation plans to increase consolidated capital by $1.5 million in the near term to bring total capital above the Zone 1 minimum and this action is strongly encouraged.

Finally, in view of the corporation's expansion plans management should give serious consideration to formalizing its management succession program and its budgeting and planning process.

After the Board of Directors has reviewed the inspection report, we would appreciate an expression of the board's views on the matters summarized on page 1 of the report. We shall be pleased to discuss any phase of the report with any interested director or directors.

Very truly yours,

Enclosures

BEST COPY AVAILABLE

Copy for
Board of Governors of the
Federal Reserve System

REPORT OF BANK HOLDING COMPANY INSPECTION

DIVISION OF BANKING
SUPERVISION AND REGULATION
JUN 12 1 26 PM '85
RECEIVED
CLEARING UNIT

Name: GOLDEN PACIFIC BANCORP	Inspection Commenced: APRIL 15, 1985
Location: NEW YORK, NEW YORK	Inspection Concluded: APRIL 26, 1985
Bank Holding Company Number: 7963	Financial Statements as of: MARCH 31, 1985

THIS REPORT OF INSPECTION IS STRICTLY CONFIDENTIAL

This report of inspection has been made by an examiner selected or approved by the Board of Governors of the Federal Reserve System for use in the supervision of the Bank Holding Company and its subsidiaries. The information contained in the report is based upon the books and records of the Bank Holding Company, upon statements made to the examiner by officers and employees, and upon information obtained from other [redacted] reliable and presumed by the examiner to be correct.

This copy of the report is the property of the Board of Governors and is furnished to the company inspected for its confidential use. Under no circumstances shall the company, [redacted], or employees disclose or make public in any manner the report or any portion thereof. It is desired that each director, in keeping with his responsibilities, thoroughly review the report. In making this review, it should be kept in mind that an inspection is not the same as an audit, and this report should not be considered to be an audit report.

FEDERAL RESERVE BANK OF
NEW YORK

FOR FILES
[redacted]

7963 BHC No.

CONDITION OF BANK HOLDING COMPANY (Cont.)

MANAGEMENT (Cont.)

Directors (Cont.)

formed, there has been one meeting. As a general rule, Dr. Chuang and his subordinates run the corporation and the bank. The board, reportedly, usually rules favorably on Dr. Chuang's proposals and suggestions. However, there is evidence in the minutes of GPNB that they discuss all major issues at length before they cast their vote. Also, they are kept well-informed of the financial condition of the corporation and the bank through elaborate reports presented at each meeting.

3. Golden Pacific National Bank:

4. OTHER SUPERVISORY CONCERNS

5. RECOMMENDATIONS FOR SUPERVISORY ACTION - None

BOPEC Rating 3-G-2-3-2/3-S

The composite fair rating of the holding company is based solely on a similar rating assigned the bank by the Office of the Comptroller of the Currency. However, the financial conditions of the holding company and its bank subsidiary are, if the trend continues, on the upturn. Earnings have been improving and there is a good possibility that they will be rated satisfactory at the next examination of the bank and inspection of the holding company. In addition, the planned injection of debt and/or equity capital should justify an upgrading of the capital rating at the next examination/inspection. Lastly, asset quality and liquidity are satisfactory and management, although thin in the middle ranks, appears to have the ability to cope with existing or foreseeable problems. Accordingly, no formal supervisory action is recommended at this time.

* * * *

SUBSEQUENT EVENTS

Subsequent to the closeout of the inspection, we were advised by officials at the Northeastern District Office of the Comptroller of the Currency of the possibility of certain fraudulent practices being conducted at Golden Pacific National Bank which will be investigated during a surprise examination scheduled for the week of June 10. The allegation involves the bank issuing certain certificates of deposit to Taiwanese nationals reportedly aggregating $20 to $40 million, but only booking a fraction of the funds in various passbook savings accounts. The bulk of the funds reportedly are being used by the bank's principals in personal investments. The information is very sketchy at this point. The worst fear is a possible massive [illegible] [illegible] [illegible] leave the bank [illegible] insolvent. The surprise examination, which will involve the Federal Deposit Insurance Corporation is to be timed with the Comptroller's examiners receiving the necessary tools to uncover any wrongdoing--search warrants, subpoena powers and authority to place bank officials under oath. Board staff and those areas at this Bank that would be impacted have been alerted to the potential problem.

FDIC Exhibit # 2

RECEIVED
JUN 26 [illegible]
Banking, Finance & Urban Affairs Committee

THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007

June 25, 1983

Banking, Finance and Urban
Affairs Committee
Rayburn House Office Building
Room 2129
Washington, D.C. 20510

Re: Golden Pacific National Bank

Dear Representative:

Yesterday I was called by officials of the Federal Deposit Insurance Corporation (FDIC). I was informed that a demonstration was underway outside the Golden Pacific National Bank, located in New York City's Chinatown, which was closed last Friday by order of the Comptroller of the Currency.

The demonstrators, most if not all of whom were frustrated and angry depositors, had gathered outside the bank, and I was asked if I would assist the FDIC officials on the scene in reassuring them that their money was federally insured. Of course I agreed and went immediately to the site of the demonstration.

It goes without saying that the principle underlying the creation of the FDIC was that if you put your money and your trust in a federally insured bank, you had no reason to worry about a bank failure. In addition, I was told by the head of the FDIC that not only would all deposits be reimbursed up to $100,000 per account, but the depositors would receive their monies before Friday of this week. I felt secure in that knowledge and so reassured the many demonstrators who were yelling and crying out their fear of losing their life's savings. It came as a terrible shock to me that the FDIC officials placed in charge of the bank expressed some uncertainty about fulfilling their obligations when a question was raised concerning certain deposits made in a particular investment program available at this branch.

It seems that a bank official may have defrauded a number of depositors and absconded with their funds. The FDIC officials in charge of the bank questioned the agency's obligation to insure those defrauded.

This position is unacceptable for the following two reasons. First, these depositors were put on notice that this was a FDIC bank and relied on that federal protection. As I understand the facts, all their deposits were receipted. Second, whatever fraud or scam that was involved here, it has apparently been going on for a number of years. It is my understanding that the FDIC routinely audits its member banks. The public and the bank's depositors had a right to rely on the thoroughness and completeness of such audits. For these two reasons the FDIC must live up to its responsibilities.

One final point, New York has one of the largest Chinrse-American communities in the country. It is a growing, hard-working, prospering community. If the FDIC were to default on its contractual obligations (in fact, or implied), it would strike a devastating blow to this community. I urge you to take whatever actions are necessary to see to it that public confidence is restored and that these depositors are fully reimbursed as quickly as possible. The City of New York stands ready to assist in the process in any way that we can.

Sincerely,

Ed Koch

Edward I. Koch
MAYOR

FDIC Exhibit # 3

FDIC
NORTHEAST REGION
NEW YORK
1985 JUL -1 PM 1:50
LIQUIDATION

FDIC NEWS RELEASE

FOR IMMEDIATE RELEASE

PR-95-85 (6-26-85)

FDIC TRANSFERS INSURED DEPOSITS OF GOLDEN PACIFIC NATIONAL BANK, NEW YORK CITY, NEW YORK

The Board of Directors of the Federal Deposit Insurance Corporation today approved the transfer of approximately $117 million in insured deposits and fully secured or preferred deposits of Golden Pacific National Bank, New York City, New York, to The Hongkong and Shanghai Banking Corporation, Hong Kong. The failed bank's four New York offices will reopen as FDIC-insured branches of Hongkong and Shanghai Banking Corporation. The FDIC is hopeful that all four offices will be able to reopen by Friday, June 28, 1985.

At the time the bank closed, its book liabilities amounted to approximately $157.1 million. About $9.8 million in approximately 170 deposit accounts exceed the federal insurance limit of $100,000. Owners of such uninsured deposits will share proportionately with the FDIC in the proceeds realized from the liquidation of the failed bank's assets. Funds amounting to approximately $15.3 million placed through the bank's loan production offices, $6.9 million of international banking facility funds, and $17.0 million of unbooked transactions are not included in the transfer pending a determination whether such funds are eligible for deposit insurance coverage.

Deposits in the failed bank up to the statutory insurance limit of $100,000, will be available to their owners immediately. Checks drawn on the failed bank's accounts will continue to be honored.

Even though insured depositors in the failed bank can automatically continue to conduct their banking transactions with Hongkong and Shanghai for an 18-month period, they are encouraged to visit the bank during the next

-more-several weeks to discuss the continuation of their banking relationships with Hongkong and Shanghai. From the standpoint of customer convenience and service, it would be preferable for these visits to be spread out over the next month or longer than for them to occur within the next week or so.

Administration of the insured deposits transferred to Hongkong and Shanghai will be funded by an equivalent cash payment from the FDIC. Hongkong and Shanghai is paying the FDIC a premium of $6,351,276 for the right to receive the transferred deposits, and will purchase loans and other assets of the failed bank for approximately $60 million.

FDIC Chairman William M. Isaac said: "The transfer of insured deposits to Hongkong and Shanghai will enable us to make available to depositors of the failed Golden Pacific National Bank the bulk of their funds with a minimum of delay and inconvenience. We are pleased that Hongkong and Shanghai will maintain a banking presence at all four locations of Golden Pacific.

"The FDIC is genuinely concerned about the approximately $49 million in claims which are not being transferred to Hongkong and Shanghai due to the inability at this time to determine their insured status. We will process these claims as expeditiously and fairly as possible. We urge the holders of the claims to be patient and bear with us as we sort out the facts.

"I cannot express too strongly my deep appreciation for the extraordinary efforts by the FDIC personnel working on this assignment. Nearly 150 FDIC employees, many of whom were flown in from around the country, have been working around the clock since last Friday under extremely difficult circumstances. We also greatly appreciate the cooperation we have received from former employees of Golden Pacific, the Mayor's Office, the New York City Police Department, the security officers retained by the FDIC, the Comptroller of the Currency, the New York Congressional delegation and from representatives of IBM, who gave us emergency assistance with our data processing problems."

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
NINETY-NINTH CONGRESS
2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515

June 26, 1985

FDIC Exhibit # 4

Honorable William M. Isaac
Chairman
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, D.C. 20219

Dear Mr. Chairman:

As you know there are questions about the manner in which some deposits at the now-closed Golden Pacific National Bank of New York will be categorized for payouts by the Federal Deposit Insurance Corporation. I am enclosing a copy of a letter from New York Mayor Ed Koch which raises some of these questions.

Such questions, of course, are critically important to the depositors at this particular bank, but they also have significant impact on the manner in which the FDIC insurance is regarded by bank depositors throughout the nation and the law and regulations under which the fund operates.

Therefore, I want a full report on the circumstances of the various issues being raised by FDIC in connection with the closure of the Golden Pacific National Bank and the details of FDIC's plans for payouts of insurance, particularly as they relate to the special deposits referred to in Mayor Koch's letter and news reports. It is important that we have this report in hand at the earliest possible moment.

It is my intention to conduct hearings on the problems at Golden Pacific National Bank and the issues surrounding the closure of the bank including the liabilities incurred for the insurance fund.

Sincerely,

Fernand J. St Germain
Chairman

[illegible]
Enclosure

FDIC Exhibit # 5

FEDERAL DEPOSIT INSURANCE CORPORATION, Washington, D.C. 20429

OFFICE OF THE CHAIRMAN

June 27, 1985

Honorable Fernand St Germain
Chairman
Committee on Banking, Finance
and Urban Affairs
House of Representatives
Washington, D.C. 20515

RECEIVED
JUN 27 1985
Banking, Finance & Urban Affairs Committee

Dear Mr. Chairman:

This letter responds to your letter of June 26 in which you enclosed Mayor Koch's letter of June 25 regarding the handling of claims at the failed Golden Pacific National Bank.

I am pleased to report that the FDIC has arranged for the transfer of approximately $117 million in insured deposits to The Hongkong and Shanghai Banking Corporation. All four offices of Golden Pacific are expected to open tomorrow as FDIC-insured branches of Hongkong and Shanghai, thereby making available to depositors of Golden Pacific the bulk of their funds with a minimum of delay and inconvenience. I am enclosing our press release announcing this transaction.

As noted in the press release, some $49 million in claims are not being transferred to Hongkong and Shanghai at this time. Of this amount, $9.8 million represents deposits that are over the $100,000 insurance limit. These depositors will share pro rata in the proceeds from the liquidation of Golden Pacific's assets. While it is too early to make any forecast, we hope that the ultimate losses to these depositors will be relatively modest.

That leaves approximately $39.2 million in additional claims: $15.3 million in funds placed through loan production offices of Golden Pacific in this country and abroad, $6.9 million of funds in Golden Pacific's international banking facility and $17.0 million in claims not reflected on the books of Golden Pacific (these funds apparently were placed in high-yielding investment certificates and were used by one or more insiders of the failed bank to finance projects in which they appear to have had a personal interest). The FDIC is reviewing these $39.2 million in claims to determine the extent to which they can be accorded status as insured deposits. Those found to be insurable will be paid promptly.

We have reason to believe that some claimants knew full well that they were not placing their funds in insured deposit accounts. Among other things, some may have been motivated by a desire to evade payment of income taxes, some by a desire to avoid currency control restrictions and some by a desire to obtain a higher interest rate than paid on regular deposit accounts. In these cases, we would have no choice but to deny insurance coverage. The claimants would be entitled to share pro rata in the proceeds of the liquidation in the same manner as other uninsured depositors.

The FDIC must undertake this kind of analysis. To do otherwise would be a clear violation of our fiduciary obligations as receiver.

While I can appreciate Mayor Koch's interest in this matter, I assure you that the FDIC hardly needs to be reminded of its legal responsibilities or of the importance of maintaining confidence in the banking system by handling depositor claims in the fairest and most expeditious manner possible. Late in the evening on June 21, the FDIC was notified that the Comptroller of the Currency had declared the bank insolvent. Nearly 150 FDIC employees, many of whom were flown in from around the country, have been working around the clock since then, under extremely difficult circumstances, in order to make funds available to depositors as quickly as possible. As a citizen, I could not be more proud of these incredibly dedicated and skilled public servants.

Mayor Koch's assertion that the FDIC has been auditing Golden Pacific for years and that the public has a right to rely on the audits is incorrect on both counts. The FDIC has never examined Golden Pacific, and court decisions have made it clear that FDIC examinations are solely for the FDIC's internal purposes.

What is needed most at this time is for everyone to remain calm and give the FDIC professionals an opportunity to sort out the facts. Our objective will be to accord insured status, as soon as humanly possible, to everyone who is entitled to that status.

I trust I have been responsive to your inquiry. If we can provide any further information, please do not hesitate to let me know.

Sincerely,

William M. Isaac
Chairman

FDIC
NORTHEAST REGION
NEW YORK
1985 JUL 15 PM 2:33
LIQUIDATION

FDIC Exhibit # 5

FDIC **NEWS RELEASE**

FOR IMMEDIATE RELEASE

PR-99-85 (7-11-85)

FDIC DETERMINES THAT DEPOSITS PLACED AT GOLDEN PACIFIC'S DOMESTIC LOAN PRODUCTION OFFICES ARE INSURED

The Federal Deposit Insurance Corporation has determined that deposits improperly accepted by the failed Golden Pacific National Bank at loan production offices in five U.S. cities are eligible for deposit insurance coverage.

Golden Pacific, located in New York City's Chinatown district, was closed on June 21, 1985, by the Comptroller of the Currency. On June 26, the FDIC approved the transfer of approximately $717 million of insured deposits to the Hongkong and Shanghai Banking Corporation.

At the time of the deposit transfer, the FDIC could not immediately determine the insurance status of approximately $16 million in demand deposit accounts, money market deposit accounts and certificates of deposit accepted at the bank's loan production offices in Houston, Chicago, Boston and San Mateo and Monterey Park in California. By law, such offices are not authorized to accept or disburse funds, but may only process documentation in connection with loan transactions.

After an investigation the FDIC concluded that, while improperly accepted at the loan production offices, these funds were clearly identified and entered on the books of the bank as deposits. Accordingly, while the bank was prohibited by law from accepting deposits in its domestic loan production offices, the FDIC has decided that, in the unusual circumstances of this case, the bank's illegal activities would not affect the deposit status of funds

-more-

BEST COPY AVAILABLE

received at the bank's offices from customers who had not knowingly participated in these illegal activities. No determination has been made regarding the insurability of funds received by the failed bank through overseas loan production offices, or funds received at any of the bank's offices that were not entered on the books of the bank as deposits.

The estimated dollar volumes of deposits at each domestic office affected by today's determination are:

San Mateo	$1.6 million
Houston	5.6 million
Chicago	2.6 million
Boston	1.3 million
Monterey Park	5.1 million

The FDIC will provide information within a few days to all account holders on how their insured funds will be made available to them. Another category of funds, consisting of about $17 million of unbooked certificates, is still under investigation. Case-by-case decisions on deposit insurance coverage of these certificates could begin later this month.

In a related matter, it has been reported in the press that the FDIC is requiring claimants to submit their "green cards" in conjunction with their proof of claim forms. Those reports are false. As in all such situations, the FDIC requires two satisfactory forms of identification for claimants. The green card held by a claimant who is not a citizen of the United States is one satisfactory form of identification but is not mandatory.

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FDIC Exhibit # 7

FDIC **NEWS RELEASE**

FDIC
[illegible] REGION
[illegible] JUL 19 PM 1:54
LIQUIDATION

FOR IMMEDIATE RELEASE

PR-102-85 (7-16-85)

FDIC APPROVES TWO DEPOSIT TRANSFERS, THREE PAYOFFS IN DOMESTIC LOAN OFFICES OF GOLDEN PACIFIC NATIONAL BANK

The Board of Directors of the Federal Deposit Insurance Corporation today approved the transfer of insured deposits of two domestic loan production offices and the payoff of insured depositors in three other loan production offices of the failed Golden Pacific National Bank of New York City.

Insured deposits in the Houston, Texas, office, amounting to $5.1 million, will be transferred to Texas First National Bank, Houston, and insured deposits of $2.0 million in the Monterey Park, California, office will be transferred to Omni Bank, N.A., Monterey Park.

Similar transfers did not prove feasible for the deposits in the loan production offices in Boston, Chicago or San Mateo, California. As a result, the FDIC will shortly begin paying off insured depositors at those locations by distributing checks to them at those offices. Announcements will be made locally later today or tomorrow as to when the checks will be ready for distribution. Insured deposits in these offices amounted to $1.1 million in Boston, $1.6 million in Chicago, and $1.3 million in San Mateo.

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[illegible]

[illegible]

U.S. HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS
SUPERVISION, REGULATION AND INSURANCE
OF THE
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
NINETY-NINTH CONGRESS
WASHINGTON, DC 20515

July 18, 1985

FDIC Exhibit # 8

Honorable William M. Isaac, Chairman
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, D.C 20219

Dear Mr. Chairman:

Pursuant to the Subcommittee's forthcoming hearings and investigations of the Golden Pacific National Bank of New York, I would request that you provide my staff with the following documents and information:

-any correspondence during the years 1980 through 1985 between your agency and Golden Pacific National Bank, its holding company, subsidiaries, or its legal representatives, including correspondence regarding the depository status of instruments that have been described as "yellow certificates";

-any internal memoranda including staff papers, opinions of counsel, or transcripts of telephone conversations from your agency for the period 1980 through 1985 relating to the Golden Pacific National Bank, including documents regarding the depository status of the instruments referred to above;

-any correspondence during the years 1980 through 1985 between your agency and between any other government agency, including the Federal Bank regulatory agencies and the U.S. Department of Justice (including the Federal Bureau of Investigation and the Immigration and Naturalization Service) regarding Golden Pacific National Bank, its holding company, subsidiaries or its legal representatives;

-any manuals, documents, or instructions describing the agency's procedures in paying off depositors of a closed national bank; and statistics during the years 1980 through 1985 on such payout situations, including the number of closings requiring such a payoff each year; the dates of and the amounts involved in each payoff; a description of the size of each institution involved; and the length of time required to payoff depositors for each institution;

-documents describing and relating to the paying off of insured depositors by the agency for Golden Pacific, including memoranda, schedules and computations relating to Golden Pacific;

BEST COPY AVAILABLE

-any manuals, documents or instructions describing the agency's procedures for institutions wishing to bid and purchase a closed national bank; and statistics during the years 1980 through 1985 on such bid and purchase situations, including the number of such purchase situations each year; the dates of and the amounts involved in each purchase situation; and a description of the size of the institutions involved;

-documents describing and relating to the bidding and purchasing of the closed Golden Pacific National Bank, including memoranda, schedules, and computations relating to Golden Pacific National Bank; and

-any other relevant information that pertains to our hearings or investigations.

In light of the forthcoming hearings, it is important that we have these documents by Monday, July 22, 1985. If there is any question you may have regarding the above, do not hesitate to contact my staff.

Sincerely,

Fernand J. St Germain
Chairman

RECEIVED FROM FDIC IN NEW YORK ON 7/23/85

FDIC Exhibit # 9

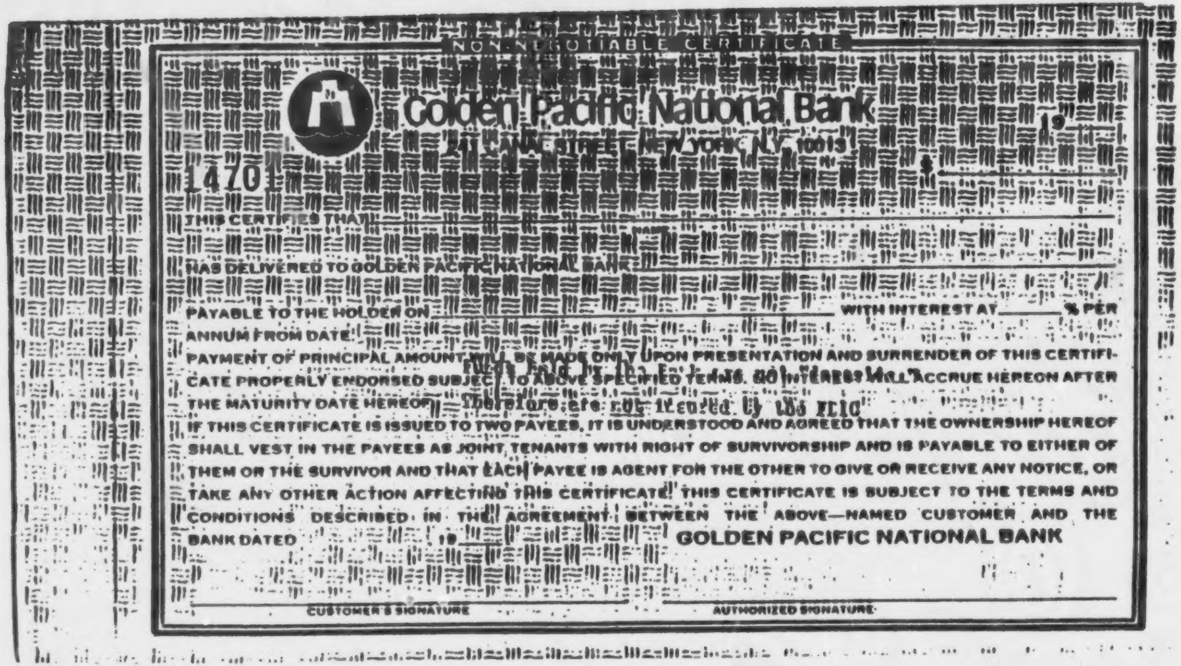
GOLDEN PACIFIC NATIONAL BANK NR-580
NEW YORK, NEW YORK - IN RECEIVERSHIP
YELLOW CERTIFICATE SUMMARY

	NUMBER OF ACCOUNTS	AMOUNT
New York - Canal	131	6,245,676.49
New York - Confucius	182	6,065,378.69
New York - Elmhurst	4	105,455.37
New York - Flushing	22	518,606.92
Sub-Total	339	12,935,117.47
Boston	1	10,554.79
Chicago	2	381,089.04
Los Angeles	4	330,742.59
Houston	19	590,564.52
Total	365	14,248,068.41

$191 MM Closed
4YRS
1979-1985

FDIC Exhibit # 10

377



NON-NEGOTIABLE CERTIFICATE

Golden Pacific National Bank

241 CANAL STREET, NEW YORK, N.Y. 10013

14701

19____

$____________

THIS CERTIFIES THAT ____________________

HAS DELIVERED TO GOLDEN PACIFIC NATIONAL BANK ____________________

PAYABLE TO THE HOLDER ON ____________________ WITH INTEREST AT ______% PER ANNUM FROM DATE.

PAYMENT OF PRINCIPAL AMOUNT WILL BE MADE ONLY UPON PRESENTATION AND SURRENDER OF THIS CERTIFICATE PROPERLY ENDORSED SUBJECT TO ABOVE SPECIFIED TERMS. NO INTEREST WILL ACCRUE HEREON AFTER THE MATURITY DATE HEREOF.

Funds held by the [illegible] are not deposits

therefore are not insured by the FDIC

IF THIS CERTIFICATE IS ISSUED TO TWO PAYEES, IT IS UNDERSTOOD AND AGREED THAT THE OWNERSHIP HEREOF SHALL VEST IN THE PAYEES AS JOINT TENANTS WITH RIGHT OF SURVIVORSHIP AND IS PAYABLE TO EITHER OF THEM OR THE SURVIVOR AND THAT EACH PAYEE IS AGENT FOR THE OTHER TO GIVE OR RECEIVE ANY NOTICE, OR TAKE ANY OTHER ACTION AFFECTING THIS CERTIFICATE. THIS CERTIFICATE IS SUBJECT TO THE TERMS AND CONDITIONS DESCRIBED IN THE AGREEMENT BETWEEN THE ABOVE—NAMED CUSTOMER AND THE BANK DATED ____________, 19____

GOLDEN PACIFIC NATIONAL BANK

____________________ CUSTOMER'S SIGNATURE

____________________ AUTHORIZED SIGNATURE

377

AGREEMENT

of

(hereinafter called the "Customer") hereby authorizes and directs GOLDEN PACIFIC NATIONAL BANK, having its principal place of Business at 241 Canal Street, New York, New York (hereinafter called the "Bank"), to receive, hold and invest for the Customer in the amount of fund to be delivered by the Customer to the Bank from time to time.

The Customer in order to induce the Bank to invest on the Customer's behalf hereby promises to pay to the Bank a service fee, in accordance with the fee schedule fixed by the Bank, for its service. The Bank in consideration of the service fee hereby agrees to invest on behalf of the Customer in securities or instruments as agreed by the Customer and the Bank.

The Customer hereby authorizes the Bank to invest, purchase or sell money market instruments on the Customer's behalf. The Bank shall invest the investment funds delivered to the Bank in and to sell of securities or instruments as agreed by the Customers and the Bank. It is understood and expressly agreed between the Customer and the Bank that the Customer shall have no recourse against the Bank on or in connection with such investment. In no event shall the Bank be held responsible or liable to the Customer for any loss wich may occasion from such investment. The customer is fully aware of the speculative nature of such investment and is well informed of the risks involved.

It is further understood and expressly agreed between the Customer and the Bank that the said money delivered to the Bank shall be for investment only and for no other purposes. The said money shall in no event constitute a deposit, time or demand, by the Customer with the Bank. The Bank shall not pay interest on the said money.

It witness whereof, we, the said Customer and the Bank, have hereunder set our hands this day of , 19 .

GOLDEN PACIFIC NATIONAL BANK

BY: ______________________ ______________________

Title: ______________________

DETAILED CHRONOLOGY OF GOLDEN PACIFIC NATIONAL BANK (GPNB) CASE AND RELATED MATTERS

DATE	ACTIVITY	WHO INVOLVED	DOCUMENTS (EXHIBIT #)
April, 1977	GPNB receives its national charter	OCC	
Sept.16 1980	OCC receives Letter from attorney representing a substantial stockholder in GPNB with letter enclosing detailed memo alleging 11 improper or questioned transactions concerning officers of the bank	OCC Shareholders attorney	
May 31 1980	OCC conducts Specialized Examination beginning on June 16, 1980 and ending August 15, 1980 (CAMEL Rating: Composite 3 CAMEL 3-3-4-2-1)	OCC	1,2
Dec.10 1980	Memorandum of Understanding (MOU) is entered into between GPNB and OCC Regional Administrator in New York	Board of Directors of GPNB,OCC	3
Dec.31, 1980	OCC conducts Specialized Examination beginning on January 19, 1981 and ending on February 27, 1981 (CAMEL rating: Composite 3 CAMEL 2-2-3-2-1)	OCC	1,2
Jan.22, 1981	John A. Bodnar, Deputy Regional Administrator instructs Donald A. Wiley, NBE, to commence an investigation of the Bank.	OCC Personnel	
	OCC cites bank for violation of Regulation D reserve requirements involving $1.5. million of GPNB yellow certificates used to purchase Bankers' Acceptances. (correspondence on this issue follows)		
Feb. 27, 1981	Mr. Wiley reports the results of his findings to Mr. Bodnar. He recommends criminal referral	OCC	

June 30, 1981	OCC conducts Special Supervisory (verification) examination beginning on July 27, 1981 and ending August 6, 1981. No mention is made of yellow certificate account in either examination report or workpapers. (CAMEL rating: Composite 2: CAMEL 2-2-3-2-1)	OCC	1,2
July 10, 1981	In a letter to the OCC, GPNB denies yellow certificate proceeds are deposits. Says has been advised so by the Federal Reserve.	OCC, GPNB	4
Dec. 4, 1981	Federal Reserve, in a letter to GPNB asks the bank to come into compliance with Reg.D as cited in 1/81 OCC examination.	Fed	5
Dec.8, 1981	OCC Regional Counsel, Wallace S. Nathan, submits criminal referral to John S. Martin, Jr., U.S. Attorney, Southern District of New York.	OCC	
Jan 12, 1982	In a letter to the Federal Reserve, OCC-NY renews its claim that yellow CD's are deposits.	OCC,Fed	
Mar.9, 1982	Memo of Federal Reserve Bank of New York to legal files, concludes that no violation of Reg. D occurred since Reg. D. exempts from definition of deposits obligations arising from sale of bankers acceptances	Fed and Mr. Chuang, President of GPNB	
June 30, 1982	OCC regional counsel's office informs Asst. U.S. Attorney (AUSA) that the scope of the subpoena was not broad enough to cover materials relevant to the OCC's 1981 referral	OCC & Justice	1,2
June 30, 1982	OCC conducts specialized exam beginning on July 6, 1982 and ending August 5, 1982. (Camel Rating: Composite 3 CAMEL 3-2-3-3-1)		1,2
Aug. 5, 1982	In a note between Anna James and OCC examiner DeBello, James acknowledges Fed decision that yellow CD's are not a violation of Reg. D.		
Dec.17, 1982	OCC Regional Office in New York receives grand jury subpoena	OCC & Justice	

Feb.28, 1983	OCC conducts a specialized exam beginning on March 7, 1983 and ending on April 4, 1983 (Camel Rating: Composite 3 CAMEL 3-2-3-3-2)	OCC	1,2
May 2, 1983	U.S. Attorney serves OCC with a grand jury subpoena	OCC & Justice	
July 31, 1983	OCC conducts Special Supervisory (visitation) examination commencing on Aug. 15, 1983 and ending on Aug. 23, 1983 (CAMEL rating Composite 3, CAMEL 3-2-3-2-2)	OCC	
Sept.27, 1983	Examiner Wiley met with AUSA to discuss 1981 criminal referral. This meeting took place just short of 2 years from the timme OCC referred the case to Justice in December 1981	OCC & Justice	
Oct.26, 1983	Examiner Wiley informed by AUSA of new allegations. Informs AUSA that examiner's earlier investigation had not turned up evidence to corroborate new evidence.	OCC	
Dec 14, 1983	OCC is served with another grand jury subpoena covering additional records. All of these materials related to OCC's criminal referral of Dec. 1981. OCC responded to this subpoena on Dec. 29, 1983	OCC & Justice	
Dec.31 1983	OCC conducts a comprehensive examination beginning on Jan.30,1984 and ending on March 1, 1984 (CAMEL Rating: Composite 2; CAMEL 2-2-3-3-1) A Consumer Affairs and an EOP exam were conducted at the same time. Results of comprehensive EOP exam indicate that overall performance is unsatisfactory.	OCC	1,2
Feb.13, 1984	OCC provided information relative to the December 1981 criminal referral to Mr. Barnard's Subcommittee on Commerce, Consumer, and Monetary Affairs	OCC Subcommittee on Commerce Consumer & Monetary Affs.	

Jan. 5 & July 20 1984	Dept. of Justice advised Mr. Barnard's Subcommittee that the criminal referral of Dec.1981 was still under review and no prosecutive opinion had yet been rendered	Justice Subc. on Commerce, Consumer & Monetary Affairs	
May 7, 1984	Golden Pacific Bancorp applies to Federal Reserve to become a bank holding company by acquiring shares of GPNB	Fed	
June 30, 1984	OCC conducts targeted examination beginning on July 27, 1984 and ending Aug. 15, 1984	OCC	I,2
July 5, 1984	OCC responded to Federal Reserve of New York inquiry regarding Dec. 1981 criminal referral	OCC Fed	
July 5, 1984	Fed staff recommended preliminary approval of bank holding company application. Cites that possible adverse managerial considerations involving matters under investigation by U.S. Attorney could warrant denial. Notes this is a serious issue given Mr. Chuang's dominance of bank's management and absence of a successor to him.	Fed	
Summer 1984	Examiner Wiley spent approximately 2 months working on the criminal referral of 1981 for the U.S. Attorney's office.	OCC & Justice	
Sept.20 1984	OCC authorized examiner Wiley to serve as an agent of the grand jury. The focus of his work with AUSA centered on three components of the original 1981 referral. Later, AUSA indicated to the examiner that the 1981 referral would probably be dropped.	OCC & Justice	
Sept. 20, 1984	U.S. Attorney's office requested that Fed take no action on bank's BHC application at this time.	James I. Garner of Fed; Rudolph Giuliani, U.S. Attorney	
Oct. 3 1984	Letter to James I. Garner of Fed from Rudolph Giuliani stated that the 1981 criminal referral has been closed because of insufficient evidence to support criminal charges against certain individuals (OCC not notified).	James I. Garner of Fed; Rudolph Giuliani, Attorney	

Oct. 12, 1984	Formal approval of BHC application of Golden Pacific Bancorp given by the Fed	Kuang J. Chuang, Pres.,GPNB; A. Marshall Puckett, Vice Pres.,FRB of New York	
Dec. 31, 1984	OCC conducts Comprehensive Examination beginning on Feb. 11, 1985 and ending on March 14, 1985 (CAMEL rating; Composite 3: CAMEL 3-2-3-3-1)	Robert A. White EIC	1,2
Apr. 26, 1985	Federal Reserve Board inspection report which began on April 15, 1985 with financial statements as of March 31, 1985 is concluded Late May, a "subsequent events" paragraph was added referencing Justice's investigation of Chuang bank officers.	Fed	
May 16, 1985	OCC notified by an informant of alleged irregularities regarding the bank's issuance of certain certificates of deposit (known as yellow certificates) OCC Director for Bank Supervision in N.E. Dist. Office notified FDIC New York Office	Informant	
Sometime in May	OCC staff attorney contacted US Attorney's office to ascertain status of the 1981 referral. The AUSA who was handling the case was no longer with the US Attorney's office. Another AUSA advised the staff attorney that the OCC criminal referral had apparently "fallen through the cracks"		
May 17, 1985	OCC also notified Federal Reserve of New York. U.S. Attorney's office declines to launch an investigation		

May 1985	Since May of 1985, OCC Attorneys have had numerous conversations with the U.S. Attorney's office regarding the allegations made by the informant OCC had hoped that the U.S. Attorney's Office would be willing to issue search warrants or commence an investiation on its own. AUSA felt that the matter could be more appropriately handled by OCC's examiners by the surprise examination that was being developed.	
May 29, 1985	OCC invites AUSA to a meeting in which the informant provided a detailed account as to the alleged irregularities	Informant
June 17, 1985 Monday,	OCC commences a surprise examination of the bank at its headquarters. FDIC sends one examiner into the bank with OCC. Concurrent examinations of the bank's five loan production offices in Boston, Houston,San Francisco, Los Angeles and Chicago takes place. AUSA kept informed of all developments.	Robert White, EIC and others from OCC and John McAvoy from FDIC
June 17, 1985 Tuesday	Mr. Chuang claimed that the "yellow CD" funds were being pooled for customers to purchase bankers acceptances (see chron. 1981 CD controversy). He did not know of any other investments.	Mr. Chuang OCC Examiners
June 18, 1985	Examiners requested and given access to the actual "yellow CD's." Roughly $15.7 million of outstanding "yellow CD's" as of 4/30/85. Told by VP Theresa Shieh, only agreement document between bank and customer is the certificate itself.	Robert White
June 18, 1985	OCC notified FDIC it had critical concerns regarding (1) possibility of a liquidity crisis and a run on the bank; (2) the possibility of a bank involvency of $15.7 million in liabilities not backed by valid bankable assets; and (3) a strong suspicial of fraud perpetrated by senior management. Concurrent exams of the bank's five loan production offices revealed that the LPO's were accepting deposits (violation of law). Further suspected that some or all were also issuing "yellow certificates."	OCC FDIC

June 19, 1985	OCC staff attorney kept AUSA advised of progress and that examiners had uncovered significant information substantiating many of the allegations.
June 20, 1985	Examiners were provided with one blank copy of an "agreement" supposedly attached to each CD. Examiners determined that as of June 20, payment of yellow CD's had resulted in a $1.8 million overdraft on an account purp[ortedly set up to channel such funds.
Friday June 21 1985	VP and Cashier Theresa Shieh told examiners that there were several assets held which were unbooked and which were not in the bank's name. No records of these assets were presented to the examiners, although examiners made demands for same. Unbooked assets were purported to include investment in: -A realty firm holding title to the bank's main office -A corporation with overseas investments -Banakers acceptances -A realty firm involved in construction activities -Subject bank's 1983 stock issuance
Friday Morning June 21	OCC officials discuss the possibility of issuing a Temporary Order to Cease and Desist (failure of the bank was not then considered imminent. Examiners still ascertaining the extent of unbooked liabilities and assets.) Immediate suspension of Chuang and Shieh were also considered. OCC staff attorney contacted AUSA on several occasions to discuss the serious nature of the case, the hi8gh probability that the OCC might close the bank that afternoon, and the OCC concerns that certain individuals involved should be immediately contacted by the U.S. Attorney's Office to ensure the integrity of the information that was being uncovered and to make sure that they did not disappear.
Friday 2:30 pm June 21	OCC emergency meeting in Washington to consider the issuance of Cease and Desist was interrupted when it was reported a run had started on the Bank

5:00 pm June 21 Friday	OCC examiners reported that long lines had formed at the various bank offices and that two of the three branches had run out of cash Cash reserves at main office were down to $400 thousand dollars During the afternoon Mr. Chuang was requested to provide information and documentation regarding the supporting of non-booked "yellow CD's" and non-booked assets representing the purposted investments made with the "yellow CD" funds.
Friday 8:00 pm June 21	Meeting with OCC officials, Mr. Chuang and his attorneys, together with Theresa Shieh and one Board member For the first time Mr. Chuang produced the following documentation to support the existence of non-booked assets. They were: -approximately $1 million in bankers acceptances -some examples of notes receivable issued by a realty firm purportedly corresponding to a like amount of "yellow CD's" and -documentation in Chinese purporting to be the bank's ownership in condominiums located overseas OCC senior management and legal counsel determined that the "yellow CD's" were not agency transactions abut represented liabilities of the bank. Because the bank was unable to produce any tangible records of assets or cash sufficient to cover its unbooked liabilities, the OCC determined that the bank was insolvent as bank liabilities exceeded assets.
10:20 pm, June 21 Friday	Deputy Comptroller Michael Patriarca declared the bank insolvent. Bank is closed. 7 The main bank, three branches and two LPO's were turned over to the FDIC. The other three LPO's were turned over to the FDIC on June 22.
10:30 pm, June 21 Friday	OCC advised the AUSA that the bank was declared insolvent and that the bank had been turned over to the FDIC — and that the OCC's involvement — in terms of the production of documents and

	assistance of witnesses, might be limited by the FDIC's presence in the Bank	
June 22 1985 Saturday	OCC examiners met with AUSA to discuss their findings.	
Friday June 28 1985	OCC notified by another AUSA that the case had been reassigned to him	
July 3, 1985	Federal Reserve Bank of New York memorandum concludes that "yellow certificates" sold by GPNB are time deposits subject to reserve requirements of Regulation D.	8

EXAMINATIONS BY THE COMPTROLLER OF THE CURRENCY

AS OF	START DATE	COMPLETION	TYPE	EIC
12-31-84	2-11-85	3-14-85	Comprehensive	Bob White
6-30-84	7-27-84	8-15-84	Targeted	Bob White
12-31-83	1-30-84	3-1-84	Comprehensive	Ken Jennings
7-31-83	8-15-83	8-23-83	Special Supervisory (Visitation)	Bob White
02-28-83	3-7-83	4-4-83	Specialized	Ed Cook
6-30-82	7-6-82	8-5-82	Specialized	Joram Friedman
6-30-81	7-27-81	8-6-81	Special Supervisory (Visitation)	Robert Brown, Jr.
12-31-80	1-19-81	2-27-81	Specialized	Robert Brown, Jr.
5-31-80	6-16-80	8-15-80	Specialized	Ira Travis

Types of Exams Performed

Special Supervisory (Visitation) - minimum scope, intended to determine progress and compliance with administrative action.

Targeted - focus is on areas of concern as determined by on-site and off-site reviews.

Comprehensive - an examination covering all areas of a bank to the degree necessary in each area (Loans, Trust, EDP, Funds Management, etc.) to provide an objective evaluation.

Specialized - same as Targeted.

OCC CAMEL RATINGS FOR GPNB

From 1980 to March 1985

Date of Exam	Type of Exam	Composite	CAMEL
5/31/80	Specialized	3	3 - 3 - 4 - 2 - 1
12/31/80	Specialized	3	2 - 2 - 3 - 2 - 1
6/30/81	Report of visitation	2	2 - 2 - 3 - 2 - 1
6/30/82	Specialized	3	3 - 2 - 3 - 3 - 1
2/28/83	Specialized	3	3 - 2 - 3 - 3 - 2
7/31/83	Specialized	3	3 - 2 - 3 - 3 - 2
12/31/83	Comprehensive	2	2 - 2 - 3 - 3 - 1
6/30/84	Targeted	3	3 - 2 - 3 - 3 - 1
12/31/84	Comprehensive	3	3 - 2 - 3 - 3 - 1

Note: This last exam commenced on February 11, 1985 and closed on March 14, 1985. OCC closed the bank just 3 months later, on June 21.)

C = Capital

A = Asset quality

M = Management and administration

E = Earnings

L = Liquidity

SYNOPSIS OF EXAMINATIONS BY THE COMPTROLLER OF THE CURRENCY AND REGIONAL ADMINISTRATOR's REPORTS FROM 1980-1984

	AS OF	START DATE	COMPLETION	TYPE	EIC
1.	May 31,1980	6/16/80	8/15/80	Specialized	Ira Travis

- President Chuang has a vast number of supervisory and policy-making responsibilities; these duties considered too large a burden for a CEO and not considered to be in the institution's best interests.

- A management succession plan is necessary for the CEO's position.

- Supervision of credit activities and banking operations is not considered satisfactory.

- Need for expansion of the level of guidance provided by the Directors to management.

- Analysis of bank's internal control systems disclosed a sharp deterioration from prior exam. This represents a significant potential risk to this institution.

- Board strongly urged to ensure that internal controls are raised to the highest possible level.

- Bank's internal auditor has many operational duties which are incompatible with auditing responsibilities. Has no prior auditing experience.

- Number of violations of laws and regulations were disclosed.

- Significant problems in accounting procedures with principal weak areas, including the loan portfolio, certificates of deposit, and gold operations.

Composite - 3 --- CAMEL 3-3-4-2-1

2.	Nov. 14, 1980			Regional Administrator Followup Report	Regional Adm. Thomas Taylor

- Loan account administered exclusively by bank president Chuang, who demonstrates an unwillingness to delegate responsibility.

- With one exception, little corrective action has been effected.

- Recommends bank be included in the Special Projects program and that a "3" rating be assigned.

	AS OF	START DATE	COMPLETION	TYPE	EIC
3.	Dec.31, 1980	1/19/81	2/27/81	Specialized	Robert Brown, Jr.

- Overall condition of bank is satisfactory. Board has responded in a satisfactory manner to comply with the MOU dated Dec. 10, 1980. (This exam began on Jan.19, 1981 and was completed Feb. 27, 1981.) However, several articles are not being complied with.
- Still a number of violations of laws, regulations or rulings.
- Although internal controls are adequate, a number of internal control deficiencies remain (although they are down substantially).
- Bank's internal audit program continued to be unsatisfactory.
- The bank has been overdrawn nine times at the Federal Reserve due to carelessness.
- Overall management is considered fair and lacking in depth.

Composite - 3 -- CAMEL 2-2-3-2-1

4.	Jan.21,			Regional Administrator Report	Regional Admin. John A. Bodnar

Repeats in substance what Thomas W. Taylor stated on Nov. 14, 1980

5.	June 30, 1981	7/27/81	8/6/81	Special Supervisory Report (Visitation)	Robert Brown, Jr.

- The limited scope of this exam encompassed a review to determine if the bank was in compliance with the MOU dated Dec. 10, 1980.
- Lending area still remains the area of concern. Since the previous exam, the Board has delegated various lending authorities depending on titles, but eventually all loans are reviewed by Mr. Chuang. Bank's management has been depleted with the loss of cashier Chi and AUP Lin, but Ms. Chi's duties have been assumed by AUP and cashier Theresa Shieh.
- Bank continued to have good earnings.
- Efforts have been put forth to correct the previously listed violations, but now several new ones have arisen. Several violations of the law and regulations listed in the previous report have not yet been corrected.
- Substantial portion of internal control deficiencies previously listed have been corrected.

Composite - 2 --- CAMEL 2-2-3-2-1

6. Dec. 2, 1981 Regional Administrator's Report Regional Administrator Thomas Taylor

- Rapid growth, combined with inadequate supervision by both the Board and management, have produced significant deficiencies in several areas of the bank.
- The ultimate approval of loans remains with Mr. Chuang.
- Credit files of certain borrowers clearly indicate the possibility of check-kiting schemes, although Chuang disagrees.
- Only area of noncompliance concerns violations of law, which were corrected at the previous exam, but have recurred.
- In substantial compliance with MOU - recommends that it be terminated.

(NOTE: Six days later, Regional Counsel Wallace Nathan submitted the criminal referral of 1981 to the U.S. Attorney.)

7. June 30, 1982 7/6/82 8/5/82 Specialized Joram Friedman

- Significant weaknesses noted in August 17, 1981 Electronic Data Processing (EDP) exam. Another EDP exam is scheduled to commence shortly.
- Board of Directors and management have made a concerted effort to comply with the MOU. The Bank found to be in substantial compliance with most covenants of the MOU, with the exception of Article XI (audit procedures) and Article XIV (relating to violations of law and regulations).
- Reserve for loan losses inadequate.
- Additional and recurring violations of law were disclosed.
- "Chairman and President Chuang and Cashier Thieh need to delegate more of their routine tasks to their supporting staff."
- A significant increase in the volume of criticized and classified assets in comparison to the prior specialized examination.
- Plans to significantly increase the size of the loan portfolio while simultaneously projecting continued growth in the bank's resources necessitates that the Board initiate plans for an additional capital injection.

- In conclusion, the bank experienced mixed results in the past 18 months leading to the assessment that the present condition is fair.

Composite - 3 -- CAMEL 3-2-3-3-1

8.	Jan.4 1983	Regional Administrator's Report	John A. Bodnar, Deputy Regional Administrator

- Identification and nature of the problem.
- Chuang and the cashier considered overburdened, overall management is deemed fair.
- The latest exam reflects deterioration in the bank's overall condition as a result of ineffective management during a period of rapid asset and deposit growth.
- Level of classified and criticized assets has significantly increased.
- Capital is inadequate

Corrective Action

- Although the bank was found to be in substantial compliance with the MOU, its overall condition has declined to a level which is less than satisfactory.
- Articles IX and XIV of the MOU respectively addressing AFLL adequacy and violations of law are in noncompliance.
- The reserve for possible loan losses policy is now considered satisfactory. Most violations of law were corrected during the exam.
- The corrective measures initiated by management mitigates the need for additional administrative action at this time.
- Composite rating of "3" is assigned
- Notes the existence of the criminal referral and the allegations contained therein, and that no action has been taken to date.

9.	Jan.29, 1983	Special Supervisory Attention Report Period covering 2nd half of 1982	Michael Carnovelli. Regional Director for Special Surveillance

- The latest examination reflects deterioration in the bank's overall condition as a result of ineffective management during a period of rapid asset and deposit growth.
- Overall management deemed fair, with both the President and Cashier considered overburdened
- Level of classified assets has significantly increased.
- Capital is inadequate
- Notes noncompliance with violation of law provisions of Article XIV of MOU.
- But concludes that corrective measures initiated by management mitigates the need for additional administrative action at this time.
- The report goes on to note the several questionable activities that were under investigation that led to the 1981 criminal referral. He concludes that because of these allegations, the bank will remain to Special Supervisory Attention.

	AS OF	START DATE	COMPLETION	TYPE	EIC
10.	Feb.28, 1983	3/7/83	4/4/83	Specialized	Ed Cook

- Overall condition of the bank is fair.
- Asset quality remains satisfactory.
- Volume of criticized loans has increased.
- Seven violations of law were noted in the commercial report of the exam. One of these violations (Issue and Cancellation of Capital Stock of Federal Reserve Bank) has been in evidence since December 1980. This disregard for the law must be addressed by the Board of Directors. Other violations noted refer to the lending area, capital, reserves of member banks, interest on deposits and lost or stolen securities.
- The Board is again reminded that all violations should receive prompt attention and correction in order to comply with the MOU.
- Directors are reminded of their potential liability for any losses which may occur on loans that exceed the lending limit of 12 U.S.C. 84
- Capital is inadequate. Asset growth has continued to outpace capital growth.
- Although asset quality remains satisfactory, the volume of classified and criticized loans continues to significantly increase. Liberal lending practices are again cited, with prudent lending policies apparently compromised for loan growth and income objectives. Concern over these practices is intensified, by the lack of an adequate loan review function.
- Overall supervision provided by the Board and senior management is considered to be satisfactory. However, President Chuang continues to exert strong influence over each area of the bank. Management succession is not apparent at this time (this was brought up by OCC back in 1980).
- Internal controls are marginally adequate. Increased management attention, personnel training, and an effective monitoring system are needed to ensure routine and consistent compliance.
- While data processing is timely and reliable, many of the management and internal control deficiencies identified in the last two EDP reports have not been adequately resolved. It is expected that the Board will monitor management's efforts and encourage correction of deficiencies described.

Composite - 3 --- CAMEL 3-2-3-3-2

11. June 6, 1983	Regional Administrator's Report	John A. Bodnar, Deputy Regional Adm. for Examinations

Nature of the Problem

- Overall condition of the bank is again considered fair.
- Capital remains inadequate, with the primary capital currently representing 5.4% of total assets.
- Most deficiencies are centered in the lending area.
- Level of criticized loans has increased to 68% of gross capital funds vs. 59% at last exam.

A repeat violation of exceeding loan limitation (12 U.S.C. 84).

- "The report indicates the quality of supervision over the loan portfolio, and the bank as a whole, has significantly improved, to a satisfactory level." That assessment is premature considering the lack of management depth noted and the deficiencies detailed above.
- Repeated and new violations of law are again noted.
- Capital inadequacy is being addressed with an application for the sale of common stock. If successful, the capital base would be strengthened and a more reasonable level of classified assets would be noted. These factors presently mitigate a need for additional enforcement action.
- Notes the criminal referral and cites specific allegiations.
- Concludes that in light of the continued areas of concern and the criminal referral, the bank will remain subject to Special Supervisory Attention.
- Composite "3" rating is assigned.

AS OF	START DATE	COMPLETION	TYPE	EIC
12. July 31, 1983	8/15/83	8/23/83	Special Supervisory (Visitation)	Bob White

- Primary focus was directed toward review of compliance with the MOU, the lending area and capital adequacy.

- Improvement is noted, however. The overall condition of the bank is fair.

- Management and the Board have been attempting to comply with all but one requirement of the Memorandum. (Article XIV which pertains to correction of previously cited violations of law. The violation of 12 U.S.C. 84 (exceeding lending limitations), subscription to stock of the Federal Reserve Banks remain uncorrected. New violation of C.F.R. 7.3025 regarding "other real estate owned" was cited at this exam. The examiner states:

- These violations, coupled with violations of law and regulation in the past are indicative of a lack of familiarity or disregard for the law. The Board is once again reminded that all violations cited should receive prompt attention and corrective action in order to comply with Article XIV of the Memorandum. Additionally, the Directors are reminded of their potential liability for any losses which may occur on loans exceeding the limits of 12 U.S.C. 84.

- Notes improvement asset quality and decrease in criticized assets from 68% to 60% of gross capital funds from prior exam.

- Again recommends that the Board expand and formalize the loan review process.

- Capital still inadequate, although the bank's level of capital was raised during the exam.

- Although senior management advised that there is now a plan for succession, there does not appear to be anyone in house fully capable of succeeding President Chuang.

Composite - 3 --- CAMEL 3-2-3-3-2

13. Oct.10, 1983			Regional Administrator's Report	

- Management quality is considered fair in view of the lack of successor management, continued violations of law, and weaknesses in the bank's financial performance.

- The bank remains in substantial compliance with the MOU dated Dec. 1980. Violations of law have again resulted in noncompliance with Article XIV of the document. Improvement is noted regarding most areas of concern.

- Notes the existence of the criminal referral of 1981; that matters were disclosed which potentially affected the overall condition and operations of the bank; that a meeting with the U.S. Attorney's office and OCC Examiner was held in early June, 1983, and that a second meeting has been scheduled for September 1983.
- Concludes that the bank's removal from the special projects program will be considered following the next exam, since there are trends which indicate the bank's overall condition is satisfactory.

14. Dec.31, 1983 1/30/84 3/1/84 Comprehensive Ken Jennings

- With the exception of the EDP area, the overall condition of the bank is considered satisfactory. EDP exam indicates that overall performance is unsatisfactory.
- Capital adequacy is now acceptable following the increase in equity through the sale of 100,000 shares of stock.
- Mr. Chuang continues to exert a strong influence over each area of the bank. Management succession is not apparent at this time.
- Board receives very little information on management's funding strategies and its success in meeting predetermined goals. It is recommended that the Board increase its supervision of funding activities.

Composite - 2 -- CAMEL 2-2-3-3-1

15. May 24, 1984 Regional Administrator's Report

- Prior exam indicates that the bank's overall condition is satisfactory. Asset quality has significantly improved.
- The bank is considered in full compliance with the MOU dated December 1980. Despite a satisfactory condition, the ROE reflects weaknesses in the financial performance, administrative process and EDP areas which merit the District's attention.
- Notes the criminal referral and indicates that commencement of a grand jury is anticipated in the summer of 1984.
- Then recommends termination of the MOU, and a composite rating of "2". However, in light of the deficiencies noted and the potential action of U.S. Attorney's office, the Special Projects should continue to monitor the bank.

- 6/27/84 - Special Projects staffer Michael Younger concurs in terminating the MOU but disagrees that the bank has attained full compliance with the MOU. Cites the lack of implementation of the management succession provision for Mr. Chuang, and the need for another senior officer with responsibilities for general administrative duties. He says, "It appears that such an officer is becoming more critical in view of the various management deficiencies noted in the ROE and the size and growing complexity of the bank."

- 7/30/84 - Robert Ahrens, Director, Special Projects, directs that MOU not be terminated and bank still come under review of Special Projects until next exam.

16. June 30, 1984	7/27/84	8/15/84	Targeted	Bob White

- The review focused particular attention upon earnings, capital, management supervision and the lending area.

- Overall condition is fair.

- Sufficient deterioration has occurred to indicate a modest reversal of the positive trend cited at last exam.

- Earnings are fair; capital, again is inadequate.

- The bank continues to be in compliance with MOU, dated Dec. 1980

- Chuang continues to exert a strong influence over each area of the bank.

- Management and the Board have not provided adequate long-range planning. They also exhibited some lack of familiarity with reports submitted to them. These reports are meant to assist the Directors and not to merely satisfy OCC requests.

- Management succession is not apparent at this time.

- Several deficiencies in funding strategies were noted and remain uncorrected. The Board should review these recommendations and take corrective action. The Directorate should also increase their involvement with and supervision of funding activities.

Composite - 3 -- CAMEL 3-2-3-3-1

17.	Nov. 28, 1984			Regional Administrator's Report	Roberta Wagner, Acting Director for Bank Supervision

- Problems with lower earnings and increased capital leverage, reversing prior positive trends, are related to each of effective long-term planning on part of senior management and the Board.
- Earnings problems, emanate in part from overhead associated with a new head office.
- Occupancy expense increased from $932 M from $276 M for the first six months of 1984.
- Bank remains in compliance with MOU of December 1980.
- A composite rating of "3" is recommended.

- Mr. Younger of Special Projects disagrees that bank is in compliance with the MOU. He again cites the fact that the bank has not developed a successor management plan pursuant to Article I of MOU.

18.	Dec.31, 1984	2/11/85	3/14/85	Comprehensive	Bob White

- Overall condition of bank remains fair
- Earnings improved and are fair
- Capital remains inadequate
- Bank is in compliance with MOU dated Dec. 1980
- Chuang continues to exert a dominant influence on the bank.
- Management continues to exhibit some unfamiliarity with reports submitted to them.
- Management succession is not apparent and the Board has no formalized plan (How then can it be in compliance with the MOU?)

- There has been a substantial decline in criticized assets from 46% of gross capital funds to 26%.
- Several violations of law were disclosed including two violations of financial recordkeeping pursuant to the Bank Secrecy Act.

Composite - 3 --- CAMEL 3-2-3-3-1

19. May 6, 1985 — Administrator's Report — Roberta Wagner, Director for Bank Supervision

- Bank remains in general compliance with MOU - although management succession plan remains lacking.
- Recites findings of last exam.
- Recommends a composite rating of "3".
- 5/20/85 - Special Projects makes note to follow up on suspected fraud.
- 5/22/85 - the Deputy Director fo Special Projects, Thomas McAllister, recommends that if the bank's capital plan with the investment firm of Smith Barney does not materialize -- new administrative action should be taken.

EXHIBIT 1

OCC Examiners' Letters to the Board of Directors

For Examinations from 1980 to 1984

LETTER TO THE BOARD OF DIRECTORS

A specialized examination of this bank commenced June 16, 1980 using financial data as of May 31, 1980. Minimum examination procedures of the Comptroller of the Currency were expanded in the following areas: audit, leasing, credit cards, and gold transactions. Our examination was extended due to expansion of services in these areas since last examination; further details are provided in the body of this report.

Significant matters were disclosed which warrant attention by bank management and the Directors. President Chuang has a vast number of supervisory and policy making responsibilities, and these duties are considered too large a burden for a Chief Executive Officer. This is not considered to be in this institution's best interests, and increased delegation of duties is necessary to alleviate this problem. Also, a management succession plan is necessary for the Chief Executive Officer's position. Supervision of credit activities and banking operations is not considered satisfactory. Immediate improvement is deemed necessary in the levels of technical expertise and depth of management in these areas. There is a need for expansion of the level of guidance provided by the Directors to bank management. This objective should be accomplished by the Board of Directors adopting definitive written policies for key banking areas. Important banking sectors where written guidelines are deemed necessary include: leasing, credit cards, gold operations, liquidity and concentrations of credit. The Directorate's ability to effectively monitor the bank's affairs would also be significantly enhanced by upgrading reports furnished to the Directors.

A sizeable decline in asset quality has occurred with total classified assets and contingent liabilities representing 52% of capital funds, versus 11% at the last examination. Further, assets which deteriorated to doubtful and loss account for 16% of capital funds and are a matter of concern. The major portion of classified assets is centered in the loan portfolio. Significant problems noted in the examination of the loan portfolio included a large rise in past due and a lack of a realistic charge-off policy. Also, there is a need for an improvement in collection efforts. Our analysis of lending functions further disclosed that credits not supported by adequate financial information and collateral exceptions have risen to unacceptable levels. As a result of these findings, supervision of the loan portfolio is not considered satisfactory.

Management was not able to provide a written internal analysis of the Reserve for Possible Loan Losses, and this deficiency is cited as a violation of law. Based upon our analysis of problem loans, the Reserve for Possible Loan Losses was not considered adequate and a special provision of $430,000 was made. This provision more than offset the $307,000 earned in the five months ended May 31, 1980. As a result, net earnings for 1980 are likely to fall considerably below the budgeted figure of $761,000. Therefore, a revision of the budgeted profit figure is recommended.

The bank's capital level is considered adequate at the present time. However, a continuation of present unfavorable trends would likely lead to an inadequate equity position. The rapid growth which continues to be experienced by this institution is another factor which can exert pressure on the present capital level. Therefore, the Board is advised to develop a plan for future increased capital.

Our analysis of the bank's internal controls systems disclosed a sharp deterioration in this area from the prior examination. Numerous weaknesses were noted in key banking areas with the largest number of internal controls deficiencies centered in lending function. Internal controls are an important area of concern, and the lack of strong internal controls represent a significant potential risk to this institution. The Board of Directors is strongly urged to ensure that internal controls are raised to the highest possible level as part of the Directorate's responsibility to safeguard the bank's affairs.

LETTER TO THE BOARD OF DIRECTORS
(continued)

This institution's operations have deteriorated sharply since our previous examination. Significant problems were disclosed in accounting procedures with the principal weak areas including the loan portfolio, certificates of deposit, and gold operations. Also, numerous inaccuracies were noted in regulatory reports filed by the bank. Based upon these findings, supervision of operations is not considered satisfactory.

Another area of concern is the large amount of capitalized architect's fees and related expenses, totaling $227,000, which were incurred by the bank in conjunction with future expansion plans. This pertains to a site contiguous to the bank's main office. At this point, there is a reliance upon a group of prospective investors to reimburse the bank for these costs. This institution and the group of potential investors have not yet consummated a written agreement, and these costs are classified substandard.

Our analysis of the internal auditing process disclosed several areas which should be addressed by the Directorate. The bank's auditor has many operational duties which are incompatible with auditing responsibilities. Also, this individual has no prior auditing experience. Areas are noted where the present audit process could be improved. The Board recently adopted an audit policy that requires the auditor to report directly to the Examining Committee. The auditor has been reporting to President Chuang. It is suggested that the reporting link from the auditor to the Examining Committee be implemented as soon as possible.

A number of violations of laws and regulations were disclosed. The bank is advised to correct all violations as soon as possible, and report progress to Mr. Thomas W. Taylor, Regional Administrator of National Banks.

Liquidity continues to be satisfactory and investments are composed of United States Treasury issues. The deposit base continues to be stable.

Overall results of the examination indicated that significant problems have developed since the previous examination and the condition of the bank is unsatisfactory. As a result, the bank is advised to consider restricting growth and refrain from initiating new banking services in the immediate future. These actions would allow the Directors and Management to concentrate efforts on improving weak areas.

A Consumer Affairs Examination of this bank was conducted as of June 16, 1980. Further details, including several violations of consumer banking regulations are provided in a separate report of examination which has been made a part of this consolidated report.

Joe E. Travis
National Bank Examiner

Per: Thomas W. Taylor
Regional Administrator of National Banks

CHARTER NO. 16646

LETTER TO THE BOARD OF DIRECTORS

An examination of the bank was commenced on January 19, 1981 using financial information for the most part as of December 31, 1980. Specialized examination procedures as detailed in the Comptroller's Handbook for National Bank Examiners were used except in the Gold Department where these procedures were expanded due to the volatility in the gold market.

The overall condition of the bank was considered satisfactory with earnings considered good, capital adequate, liquidity very good and the investment portfolio also good. For the most part the Board has responded in a satisfactory manner in attempting to comply with the Memorandum of Understanding dated December 10, 1980. However, of primary concern at this time is the Boards failure to fully comply with the Memorandum. A review of the Memorandum indicates that several Articles are not being complied with. These Articles are addressed in the appropriate sections of this Board letter.

Total loans subject to criticism have shown a substantial improvement over the previous examination going from 37.78% of Gross Capital Funds to 20.61%. This the result of the banks efforts to obtain current and satisfactory credit information. At the previous examination loans not supported by satisfactory credit information represented 53.30% of gross loans and is down to 18.15% at this examination but this is still considered too high. While efforts to correct the collateral exceptions listed in the previous examination have shown some results there continue to be substantial numbers of collateral exceptions again listed in this report. It should be noted that these exceptions are not all old ones and it appears the bank is continuing to not properly document its loans at their closing. Past due is down from 7.4% of gross loans to 4.4%. This is primarily reflected in the commercial loans which decreased from 9.3% to 3.4%. These figures are the actual figures as of December 31, 1980 as the reports submitted to the Board of Directors for their January meeting were incorrect. Past due instalment loans and credit cards were improperly reported. If a customer promised a payment, made a payment before the report was generated or had never been on the past due list before they were omitted from the report submitted to the Board. In order to reflect the proper past due figure for the bank these loans must be included in the past due.

As the bank has not obtained current and satisfactory credit information and taken all necessary steps to correct the collateral exception it continues to be in non compliance with Articles VII and VIII of the Memorandum of Understanding and as the past due reports submitted to the Board are incorrect they are in non compliance with Article IV. It would appear that the action taken by the bank to comply with these Articles is not completely effective. It is encumbent upon management and the Directorate to take more forceful steps to see that the Memorandum of Understanding is complied with.

Listed in this report are a number of Violations of Laws, Regulations or Rulings. Special attention should be directed to the violations of 12 U.S.C. 84. The Directorate is reminded that they may be held liable for any loss which the bank may suffer as a result of these violations even though they have not approved the extensions of credit. These violations are primarily the result of carelessness on the part of lending officers and unfamiliarity with other regulations and rulings, but all require immediate corrective action. When these violations have been corrected the bank is instructed to inform, in writing, the addresses on the cover of this report. Correction of the violation of 12 U.S.C. 371 (d) during the examination now brings the bank into compliance with Article XIV of the Memorandum of Understanding.

LETTER TO THE BOARD OF DIRECTORS - (Continued)

Even with the large charge-offs taken at this examination, the Reserve for Loan Losses is adequate. The bank analyzes its Reserve on a regular basis but a more in depth review of the credit card losses should be done to ensure the reserve is kept at an adequate level. It is recommended that the Board continue to make appropriate monthly transfers in order to maintain the reserve at an adequate level.

Internal controls are considered adequate, but listed in the appendix of this report are a number of internal control deficiencies. Most of these were listed at the previous examination. The number of deficiencies is down substantially since the previous examination. Correction of all deficiencies is necessary in order to bring the bank into compliance with Article X of the Memorandum of Understanding.

The bank's internal audit program continues to be unsatisfactory. During the examination, the bank's recently appointed internal auditor quit. As the bank continues to grow at a rapid pace, approximately 50% since the previous examination, the need for an effective internal auditor increases. Previous audits by the bank's part time auditor lacked supporting workpapers and were limited in areas covered. The external audit is presently in process and conversations with members of the audit team indicate that there are several accounts that contain unresolved differences. To resolve this matter and to prevent a recurrence in the future the Board has acted to correct this situation by appointing an internal auditor.

Article XII of the Memorandum of Understanding requires the Board to provide the Regional Administrator of National Banks a written plan describing its plans regarding expansion of the bank's fixed assets. This detailed plan must be submitted in order for the bank to be in compliance with this Article.

The Directorate has developed and adopted written policies for a number of areas of the bank. It is recommended that the Gold operations policy be revised to include the silver operations and that the Asset/Liability Management policy be expanded to include the suggestions noted in this report.

The overall asset quality of the bank is considered satisfactory. This is based on the relatively low amount of criticized assets and high liquidity provided by the Federal Funds sold, investment portfolio and certificates of deposit purchased.

Listed under Other Matters in this report are several areas of the bank in which corrective action is required. The bank has been overdrawn nine times at the Federal Reserve Bank due to carelessness. It is of the utmost importance that the bank be more careful in calculating its reserve balance to prevent continued fines. Additionally it is strongly suggested that the bank reconcile the Due From Taipei account, on a regular basis, in the currency of Taiwan in order to produce a more accurate position for the bank.

The bank has 51.02% ($19,618M) of its total deposits in rate-sensitive funds. With the banks high liquidity and present asset structure this is not considered a problem but management should closely monitor this situation to anticipate unexpected withdrawals of these funds.

(Continued)

LETTER TO THE BOARD OF DIRECTORS - (Continued)

Overall management is considered fair and lacking in depth. The accounting and operations areas have been strengthened with the addition of Ms. Sha-Li Chi as Cashier and the loan department, with the addition of Assistant Vice President James Lin, has shown some improvement. These additions are a start in the right direction but continued strengthening is necessary especially in view of the banks rapid expansion rate.

The comments and criticisms included in this report have been reviewed with Chairman of the Board and President Chuang and should receive the attention of the Board as considered warranted.

Robert W. Brown Jr.
National Bank Examiner

Per: Thomas W. Taylor
~~Deputy~~ Regional Administrator of National Banks

Charter No. 16646

LETTER TO THE BOARD OF DIRECTORS

A Special Supervisory examination was commenced on July 27, 1981 using financial information for the most part as of June 30, 1981 and procedures as described in the Comptroller's Handbook for National Bank Examiners.

The limited scope of this examination encompassed a review to determine if the bank was in compliance with the Memorandum of Understanding dated December 10, 1980. As required, the bank has submitted amended written policies on the following Articles to the Regional Administrator of National Banks: Article II Written Lending Policy; Article III Written Policy for Gold Activities; Article XI Written Audit Program. Article VII requires the bank to obtain complete credit information on all loans and our review at this examination indicated substantial compliance with this Article. Article X requires correction of all internal control deficiencies and this appears to be substantially complied with.

The lending area still remains the area of concern. The management of the lending area is considered weak, lacking in depth and in need of a more sophisticated senior lending officer who can take charge of the growing portfolio. Since the previous examination the Board has delegated various lending authorities depending on titles but eventually all loans are reviewed by Dr. Chuang. The bank's management team has been somewhat depleted with the loss of Cashier Chi and Assistant Vice President Lin. Ms. Chi's duties have been assumed by Assistant Vice President and Cashier Theresa Shieh and Mr. Lin's by Mr. Horace Huang. Both of these individuals have been moved from other positions in the bank and thus there were no actual additions made to the management team. Both of these individuals appear to be capable but it is too soon to make any real judgment. While two persons, Mr. Ng and Schen, were made Junior Officers they still continue to be mainly involved in financial analysis and documentation of loans. Virtually all collateral exceptions and statements lacking listed in the previous reports have been corrected due to the efforts of Ms. Ng and Shen. Management of the Cashier's Department (operations) appears to be satisfactory, but due to the recent loss of Ms. Chi and the appointment of Ms. Shieh to fill the vacancy as of July 15, 1981, a definite statement can not be made. The Board has adopted training programs and encourages continuing education for its junior officers in order to ensure an adequate staff. Overall, the management team is considered fair. Additional strengthening of management, especially in the lending area, is needed.

Assets subject to classification have increased since the previous examination. This is due mainly to one loan, [redacted] which Vice President Curran recommended be turned down but was approved by the Board of Directors anyway. While the overall quality of the portfolio appears satisfactory, management of the portfolio is considered weak and in need of strengthening. Substantial improvement has been shown in obtaining the required financial statements, but files lack other necessary credit information. Assets subject to classification represent 23.3% of gross capital funds compared to 20.9% at the previous examination.

Based on the classifications at this examination, the Reserve for Possible Loan Losses was determined to be inadequate. In an analysis performed and discussions held with Dr. Chuang it was determined that a transfer of $250M to the Reserve was necessary. This transfer was made at the same time the estimated losses were charged off and now the Reserve is considered adequate.

The bank continues to have good earnings with a net income of $391M for six months after a $50M dividend. Net income of $1MM before dividends, taxes and transfers to the reserve for possible loans is projected for 1981 and it would appear that this is possible. The bank's budget, as drawn up, does not break the figures down monthly or quarterly but only shows the projections for the year. Therefore it is not possible to make a comparison with the actual figures. It is also impossible for the Board to perform a periodic update and review of these figures as they can not be compared with the actual income figures. The Board of Directors should review the budget quarterly, comparing it to the actual figures and make any changes considered necessary. Reportedly, during the month of July, the bank's net income was $221M before taxes and dividends but these figures will be somewhat affected by the required transfer to the Reserve for Possible Loan Losses.

(Continued)

LETTER TO THE BOARD OF DIRECTORS - Continued

Total assets have grown $10,826M or 23.6% since the previous examination while total capital only increased $391M or 9.2%. In light of the asset structure of the bank and considering the large amount of rate sensitive deposits, capital is considered fair. If the bank continues to grow at its present rate, an increase from a source other than retained earnings will be necessary. The bank exceeds its peer group in most ratios as of Mar-31-81, but a review of these ratios shows that the bank continues to come nearer to the peer averages at each reporting period. As of Dec-31-80, equity growth from retained earnings was 9.35% compared to the peer group's 11.75% and return on average equity was 9.96% compared to the peer's 14.87%.

Efforts have been put forth to correct the previously listed violations but now several new ones have arisen. It would appear from these violations that management is not familiar with laws regarding the combining of loans. Several violations of the law and regulations listed in the previous report have not yet been corrected. The violation of 12 USC 84 to [redacted] was further compounded when the bank consolidated all its debts and took one note for $485,742. On the violation of Interpretive Ruling 7.5225, two violations were listed. The first violation relates to Independent Auto Systems whose daily statement indicates the very strong possiblity of a check kite. The resulting overdraft to [redacted] would confirm the existence of a kite. The second violation was [redacted] where the bank's credit file contains a letter dated Sep-23-80 from a California law firm specifically referring to this matter as check kiting. In discussions with bank officers they also referred to it as check kiting. Based on these facts it would appear a report to the Regional Administrator of National Banks, the local office of the Federal Bureau of Investigation, the United States Attorney and the bank's bonding company is required. Management feels that the violations of the Interpretive Ruling do not exist as they do not suspect check kiting. The bank is attempting to collect the previously listed violation of 12 USC 84 to [redacted] which is now nonconforming. Listed in this report are several violations of 12 USC 84 which arose either out of carelessness or a different interpretation of the law. Dr. Chuang takes exception to these violations and will so respond. The Directorate is reminded they may be held personally liable for any loss the bank may suffer on any one of these violations.

A review performed of the workpapers and reports of the internal auditor found his work to be adequate. Due to the short period of time Mr. Shen has been the auditor he was not able to fully comply with the Audit Program. It is strongly suggested that Mr. Shen broaden his audit skills by enrolling in a program of continuing education.

As indicated elsewhere in this report, the internal controls were found to be adequate. A substantial portion of those internal control deficiencies previously listed in the reports of examination have been corrected. Management is endeavoring to correct those exceptions still in existence.

The overall condition of the bank continues to improve. Liquidity is considered very good at 57.8%. The bank continues to grow and appears to be operating in a very successful manner. Future plans include a branch in Flushing, N.Y., the formation of a holding company and a leasing company. Dependent upon successful strengthening of management the future prospects of the bank would appear very good.

Charter No. 16646

LETTER TO THE BOARD OF DIRECTORS - Continued

A concurrent Consumer Report of Examination was performed which revealed several "technical" violations requiring corrective action of management. This report indicated significant improvement over the previous report with overall performance regarding the Community Reinvestment Act considered good.

Robert W. Brown Jr
National Bank Examiner

Per: Thomas W. Taylor
Regional Administrator of National Banks

Charter No. [illegible]

LETTER TO THE BOARD OF DIRECTORS

An examination of the bank was commenced on July 6, 1982 utilizing financial information as of June 30, 1982. The scope of the examination was limited to the procedures for Specialized Examinations as outlined in the Comptroller's Handbook for National Bank Examiners. The procedures were expanded to determine compliance with the Memorandum of Understanding entered into on December 10, 1980. A Consumer Affairs Examination was conducted concurrently. A separate Electronic Data Processing (E.D.P.) Examination is scheduled to commence shortly, and therefore the scope of this examination was not expanded to review the bank's corrective measures adopted in view of the significant weaknesses noted in the August 17, 1981 E.D.P. Report of Examination.

The examination concluded that the Board of Directors and management have made a concerted effort to comply with the Memorandum of Understanding. Improvements are noted in internal controls, the audit function, the relative volume of loans lacking current financial information, collateral exceptions and personnel. The Consumer Affairs Examination also concluded that management has made further improvement in regard to its compliance efforts. Overall compliance with the Community Reinvestment Act and all other consumer related regulations is satisfactory. The bank was found to be in substantial compliance with most covenants of the Memorandum with the exception of Article XI and XIV. This reserve for loan losses was deemed inadequate; additional and recurring violations of law were disclosed. Although President Chuang did not concur with the interpretations of some of the cited violations, management should strengthen its efforts to comply with all laws, rulings and regulations. When these violations have been corrected the bank is instructed to notify, in writing, the addresses on the cover of this report.

The bank's management team, although still considered fair, has exhibited some improvement in the past year. Management has implemented regular management committee meetings and initiated various training sessions. A full time auditor has been hired and internal controls have continued to improve and reflect management's concern. However, due to the bank's rapid growth in resources and the high turnover rate in its middle management levels experienced prior to 1982, some of the bank's officers do not quite have the expertise commensurate with their positions. In addition, Chairman and President Chuang and Cashier Shieh need to delegate more of their routine tasks to their supporting staff. As all bank employees are very diligent, able, and in many instances possess advanced college degrees, this deficiency should only be one of a short term nature. Additionally, since the last examination the bank's senior lending officer has left the bank. His position has been assumed by Vice President Chen, however, at this time Mr. Chen's performance can not be determined. It is recommended that developments in the lending area be closely monitored in view of the increase in criticized assets noted during this examination and management's plans to substantially increase the loan portfolio.

The examination noted a significant increase in the volume of criticized and classified assets in comparison to the prior specialized examination. Classified assets increased from $944 thousand or 20.94% of gross capital funds (G.C.F.) to $2,419 thousand or 38.14% of G.C.F. Concurrently criticized assets increased from $944 thousand or 20.94% of G.C.F. to $3,949 thousand or 62.27% of G.C.F. Included in this examination's criticized and classified totals were $909 thousand in contingent balances. While it is recognized that these increases are primarily attributable to two groups of loans totaling $2,807 thousand, it was noted that liberal lending practices emanating from an eagerness to increase the relatively small loan portfolio, may have contributed to this condition. While the overall quality of the loan portfolio is still sound, management is cautioned to maintain high credit standards and proper documentation for all loans, especially in light of its plan to double the size of its loan portfolio in the next year.

A review of the bank's reserve for bad debts concluded that it was inadequate. Partially contributing to this result were the findings that management's periodic assessment of the reserve's adequacy did not incorporate

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a review of potential other real estate properties and the internal loan classifications tended generally to be less severe than the OCC's. A total of $290 thousand was charged off during this examination, thereby necessitating an immediate provision of $150 thousand and additional monthly provisions of $25 thousand for July, August and September. It is recognized that the volume of charge offs were centered in two long outstanding problem loans totaling $212 thousand. But nevertheless, the bank continues to suffer from an historically high charge off level and a relatively low recovery rate comparison to its peer group. Management has taken steps to correct this deficiency by establishing a special collection unit to contact delinquent accounts on a more timely basis and pursue all legal avenues available.

The bank's earnings performance for the past eighteen months is considered to be fair. Heavy dependence on rate sensitive deposits combined with an ineffective asset liability management strategy led to high volatility in the institution's monthly net interest margins and operating results. Management and the board have recognized this deficiency and the new asset liability management policy calls for more prudent gap positions. Earnings were also negatively impacted by high overhead expenses and large charge offs resulting in high provisions for bad debts. 1981 net income of $400 thousand or a return on average assets (R.O.A.) of .67% was low relative to the peer group. Net income of $357 thousand for the first six months of 1982 reflected an R.O.A. of .92%, however, these earnings are below the level earned in the corresponding period in 1981. In view of the need to replenish the reserve for bad debts, the large volume of miscellaneous assets written off during this examination, and a sharp drop in interest rates in July, it appears that management's 1982 projection of $1,150 thousand in net operating income before taxes is optimistic.

The bank's capital base was determined to be marginally adequate. The bank continues to experience a very rapid asset growth rate. Since Dec-31-80 the bank's total resources have increased by $46 million or 101%. The bank's internal capital generation in comparison to its asset growth rate has been low, thereby necessitating external capital injections. The current primary capital ratio of 6.84% is low relative to the peer group, however, it is partially mitigated by the bank's low level of risk assets. Plans to significantly increase the size of the loan portfolio while simultaneously projecting continued growth in the bank's resources necessitates that the board initiate plans for an additional capital injection.

The bank's liquidity level continues to be very good. Management followed a strategy of investing all surplus funds in the federal funds market, resulting in an inordinately high 53% of the bank's total assets being invested in this manner as of the examination date. But this strategy has also contributed to very large gap positions. The new asset liability management policy addresses this issue and in accordance with it, management in July took steps to reduce these exposures.

In conclusion, the bank experienced mixed results in the past eighteen months leading to the assessment that the present condition is fair. Although future prospects are quite favorable, management has to make a concerted effort to overcome the deficiencies outlined in this report of examination. In view of the general economic climate and the slack loan demand experienced by this institution in the past, management is cautioned to proceed carefully with its aggressive lending posture.

All of the above matters were discussed with President Chuang.

Joran Friedman

National Bank Examiner

Per: John A Bodnar

Deputy Regional Administrator of National Banks

Charter No. 16646

LETTER TO THE BOARD OF DIRECTORS

An examination of the bank was performed utilizing specialized procedures as detailed in the Comptroller's Handbook for National Bank Examiners, and financial information as of February 28, 1983. Procedures were modified or expanded in certain areas as considered necessary. General procedures were performed in order to fully evaluate the effectiveness of the bank's funds management practices. Concurrent examinations of the Consumer Compliance and Electronic Data Processing areas were conducted and the results of these examinations are detailed and attached to this report of examination.

Overall condition of the bank is fair. Asset quality continues to remain satisfactory. Approximately half of total bank assets are investment securities and certificates of deposit of domestic U.S. banks, U.S. branches of overseas banks and eurodollar deposits. These are high investment grade. However, the volume of criticized loans has increased from $3,949M to $4,426M. The largest concentration of criticized loans is in the substandard category, which increased from $1,988M to $2,467M since last examination and was primarily a result of loans advancing from Other Assets Especially Mentioned and liberal lending practices, such as advances to unprofitable new business ventures. Total charge-offs of $36M are down significantly from $221M last examination. A total of $3,413M of loans are fully secured by cash collateral.

It was observed that improvement was noted in the maintenance of credit files. However, an excessive number (17% of Gross Loans) lacked accurate and complete credit information. Additionally, analysis of credit information obtained was not made available. Exceptions to the Loan Policy was also noted and were not approved by management. A recommendation to expand the loan review process to include commercial loans in current status is also detailed in the Loan Portfolio Management Section of this Report.

The Reserve for Loan Losses is upgraded to satisfactory this examination. Stronger collection efforts have improved the recovery ratio of charged-off loans. Provisions to the reserve account have brought this total up to protective levels based upon the bank's formula and the present loss potential of loans classified at this time. Management's problem loan identification process includes maintaining specific reserves for all loans classified substandard, doubtful or loss by their internal loan review process. Management does not allocate regular monthly provisions, but rather maintains the Reserve for Loan Losses at a specific level in relation to outstanding loans.

The bank's investment portfolio including money market instruments continues to be of high quality. It provides the bank with good earnings and functions as a good secondary source of liquidity.

The bank's funds management process is acceptable. Management has taken the necessary steps to alleviate the maturity gap positions that were noted at the prior examination. Although these problems are not completely resolved, the bank is not as vulnerable to a changing interest rate environment. The thirty day gap position reveals an excess of rate sensitive liabilities over rate sensitive assets of approximately $23 million. A basic weakness in the present asset structure is the large amount of investment CD's maturing in July 1983. The one hundred eighty day gap is more closely matched as a gap of only 4% exists. This is within the bank's prescribed policy limit of a 5% variance.

Liquidity levels remain high due to the large amount of net liquid assets. This liquidity is centered in six-month certificates of deposit of large banking institutions. It is expected that this high liquidity level will be moderately reduced in the near future as the bank expands their Investment and Loan Portfolios.

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LETTER TO THE BOARD OF DIRECTORS
(Continued)

There were seven violations of law noted in the commercial report of examination. Additionally, numerous violations of consumer laws and regulations were cited. One of the commercial violations, (12 C.F.R. 209.3) Issue and Cancellation of Capital Stock of Federal Reserve Bank, has frequently been in violation since December 1980. This disregard for the law must be addressed by the Board of Directors. Other violations noted in the commercial section of the report refer to the lending area, capital, reserves of member banks, interest on deposits and lost or stolen securities. The consumer violations noted at this examination are technical in nature and should be easily remedied. The Board is again reminded that all violations cited should receive prompt attention and correction in order to comply with Article XIV of the Memorandum of Understanding. Moreover, the Directors are reminded of their potential liability for any losses which may occur on loans that exceed the limitation of 12 U.S.C. 84.

The bank's earnings continue to be fair. Net interest margins continue to be narrow due to the significantly higher average cost of funds. Balance sheet structure reflects a deposit base consisting primarily of rate sensitive, money market deposits. Earnings improvement is dependent upon the successful implementation of increased fee and service income products. Earnings for 1982 of $648M showed improvement over the $374M reported in 1981, however, this was below budget and the desired ROA. Budget for 1983, projects net income to reach $1,300M. This forecast appears optimistic in view of historical performance. It is recommended that the budget process be enhanced to include a formal variance analysis and periodic revisions to include the impact of changes in interest rates, new products or general economic conditions.

Capital is deemed inadequate. Asset growth has continued to outpace capital growth. Total capital at December 31, 1982 represents 5.6% of total assets which is below management's goal of 6.5%. The bank's recent earnings history indicates that adequate capital growth will not come from earnings retainages. Management is planning on an increase in capital to come from a stock offering in April 1983. If approved, this will generate $1.2 million dollars when fully subscribed. The bank's capital ratio will then be at a more acceptable level and approximating 6.4% of total assets.

Overall supervision provided by the Board and senior management is considered to be satisfactory. Department heads have gained additional experience in their respective areas of responsibility. However, it was noted that President Chuang continues to exert strong influence over each area of the bank. Management succession is not apparent at this time.

Management's attention is directed at the volume of assets booked overseas, specifically, Japan and Taiwan. Although the concentration is not subject to criticism, the bank may be required to complete a country exposure report at June 30, 1983 when the exposure to all countries exceeds a level of $30 million.

Overall consumer compliance is fair. Supervision of the compliance function in the residential mortgage and credit card areas and internal controls are in need of strengthening. Attention is directed to the Violations of Laws and Regulations Section of the Consumer Report cited at this examination. While the violations cited are primarily technical in nature, the violations of Regulation Z have resulted in a potential reimbursable situation. Management will be notified by the Regional Office of the Comptroller of the Currency regarding additional information and requirements pertaining to corrective actions. Internal controls are marginally adequate. Increased management attention, personnel training, and an effective monitoring system are needed to ensure routine and consistent compliance.

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Charter No. 16646

LETTER TO THE BOARD OF DIRECTORS
(Continued)

The bank's overall performance under the Community Reinvestment Act is considered satisfactory. However, some of the bank's present practices could be construed as discriminatory. Management should revise its loan policy that is more representative of the bank's philosophy and institute a formal compliance review system.

Overall, the condition of the data processing function is considered to be fair and in need of improvement. While data processing is timely and reliable, many of the management and internal control deficiencies identified in the last two EDP Report of Examination have not been adequately resolved. It is expected that the Board will monitor management's efforts and encourage timely correction of deficiencies described in the EDP report.

The new Data Processing Manager has given reasonable responses for the correction of each remaining EDP deficiency and we consider him fully qualified to address these issues. Also, the Internal Auditor completed her first review of the EDP area. This first effort was acceptable but should be improved upon with experience and training specific to the equipment and programs in use within the bank.

The comments and recommendations contained in this report have been discussed with management. The Board is requested to thoroughly review its contents and institute corrective actions wherever warranted.

Edward Cook
National Bank Examiner

Per: John A. Bodnar
Deputy Regional Administrator for Examinations

LETTER TO THE BOARD OF DIRECTORS

A Supervisory Visitation of the bank commenced August 15, 1983 using financial information as of July 31, 1983. Primary focus was directed toward review of compliance with the Memorandum of Understanding, the lending area and capital adequacy. Additional areas of interest included an update of criticisms noted in the last report of examination. Improvement is noted, however the overall condition of the bank is fair. Supervision by management and the Board is fair but improving. Asset quality has improved and continues to be satisfactory and the Reserve for Possible Loan Losses is adequate. Earnings have increased significantly from 1982 but still lag behind similar banks and are considered fair. Liquidity is satisfactory. The investment portfolio, including money market instruments, continues to be of high quality and provides a good secondary source of liquidity. The funds management process is adequate. Capital is improved and is marginally adequate.

A review of compliance by the bank with the articles of the Memorandum of Understanding with the Office of the Comptroller of the Currency, dated December 10, 1980, disclosed that management and the Board of Directors have been attempting to comply with all but one requirement of the Memorandum. Required reports and data are submitted on a timely basis. Full compliance has not been attained, specifically as to Article XIV which pertains to correction of previously cited violations of law. The violation of 12 U.S.C. 84, the Chen Yee Liu line and 12 C.F.R. 209.3 or subscription to stock of the Federal Reserve Banks remain uncorrected. In addition, a new violation of 12 C.F.R. 7.3025 was cited at this examination. These violations, coupled with violations of law and regulation in the past are indicative of a lack of familiarity or disregard for the law. The Board is once again reminded that all violations cited should receive prompt attention and corrective action in order to comply with Article XIV of the Memorandum. Additionally, the Directors are reminded of their potential liability for any losses which may occur on loans exceeding the limits of 12 U.S.C. 84.

More than half of total assets are comprised of investment securities, certificates of deposit with banks and Eurodollar deposits. Criticized assets, composed of loan and other real estate owned, have decreased from 68% of gross capital funds at last examination to 60%. The improvement is attributable to management efforts and as a result no new loans were criticized at this examination. Total delinquent loans have increased modestly, from 3.11% to 4.01%, however, this level of past due is acceptable. Management of the portfolio has been strengthened with the addition of three experienced loan officers. The volume of loans lacking adequate financial data and analytical memorandum has shown significant improvement, declining from 17% of gross loans to less than 9%. Nevertheless, credit files, especially those of the representative offices lack sufficient current memorandums. The quality of financial statement analysis should be further enhanced and developed. Despite the improvement noted, management and the Board should not diminish their efforts in further improving quality of the loans, adequacy of credit information and improved past due levels, particularly in the commercial loan area.

Aspects of a loan review function are performed such as identification according to delinquency status. However, the overall process is inadequate in light of the portfolio's condition, size and expected future growth. Once a loan becomes seriously past due, options to improve the banks position are curtailed. Therefore, it is again recommended that the Board expand and formalize the loan review process.

The Reserve for Possible Loan Losses (RPLL) is now considered adequate. The Board reviews the Reserve on a monthly basis and the provision is adjusted accordingly to maintain the balance at an adequate level.

Capital at the date of this visitation was clearly inadequate. However, during the review management reported that they had obtained $1,200,000 of new equity capital, which, based on total assets at July 31, 1983 raised the percentage of primary capital to assets to 6.25% versus 5.4% prior to the

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capital infusion, after deduction of losses charged-off at this review. This raises the level of capital into the lower end of Zone II of the Comptroller of the Currency's Capital Guidelines. Although this is a substantial improvement, the bank is still not adequately capitalized. Furthermore, earnings are not yet sufficient, in relation to growth, to maintain capital at present levels much less increase capital to the desired 7% level as prescribed in the Guidelines. Management stated that they will apply, before year-end, for a one bank holding company which they believe will facilitate future equity offerings and/or debt capital. Notwithstanding the proposed holding company, it is strongly recommended that the Board develop a realistic and timely formal capital plan to augment capital through a combination of strengthened earnings and additional equity capital.

Earnings have shown significant improvement from the $493,999 (ROA .55%) net income in 1982. For the seven months ended July 31, 1983 earnings had increased to $567,000. The 1983 June revised budget projects net income of approximately $1,300,000. These earnings would result in an ROA in excess of 1%. However, predicated on results to date the projection appears optimistic. Based on the seven month results, 1983 net profit will be approximately $1,000,000 computed on average assets estimated to be $125,000,000 for the full year and ROA will be approximately .8%. In addition, the June revised projection represents a decrease from the original 1983 estimate of $1,880,000. In view of the marginal capital base, strong earnings are imperative. The Board and management are urged to take vigorous action to reduce costs wherever possible and maximize yields to establish a strong earnings stream necessary to sustain the bank's heretofore rapid growth.

The unbalanced 30 day rate sensitivity position (ratio of rate sensitive assets to rate sensitive liabilities) cited at last examination has been largely corrected with a reduction from a negative gap of $23,000,000 to $4,725,000. The 180 day gap is now in positive position at $13,140,000, slightly over 10% of total assets. The reduction of the substantial negative gap is commendable. However, management and the Board are reminded that there is interest rate risk with a positive or negative gap. Although the risk has been lessened, the bank should not reduce efforts to maintain the ratio of rate sensitive assets to rate sensitive liabilities near equilibrium or one.

The overall quality of management is considered fair but improving. Although senior management advised that there is now a plan for succession, there does not appear to be anyone in house fully capable of succeeding President Chuang. The continued fair condition of the bank, although improved, coupled with failure to adhere to prescribed law and regulation and inability to meet or come close to projected earnings, suggest the need for additional expertise. The Board should give consideration to a review of the adequacy of management and determine if additional talent may be necessary to more effectively manage the bank.

Many of the criticisms of the bank are related to the historical growth rate. Areas such as capital, earnings and loan quality could be improved during a pause in this rapid expansion. Therefore, the Board should consider whether a more controlled rate of growth might facilitate correction or alleviation of these problems.

The comments and recommendations in this report have been discussed with management. The Board is requested to review its contents and institute corrective action where appropriate.

Robert A. White

National Bank Examiner

Director for Bank Supervision

Charter No. 16646

LETTER TO THE BOARD OF DIRECTORS

A comprehensive examination commenced on January 30, 1984 using financial information as of December 31, 1983. A consumer affairs examination as well as an electronic data processing (EDP) examination were conducted concurrently with this examination and comments regarding same are included in this report.

With the exception of the EDP area, the overall condition of the bank is considered satisfactory. The bank's capital structure is adequate and the quality of assets is satisfactory. Supervision by Directors and administration by management is fair. Although earnings have improved over the previous year, they are still rated only fair. The bank's liquidity position is good and consumer compliance activities remain fair.

The results of the comprehensive EDP examination indicate that overall performance is unsatisfactory. Serious weaknesses were noted in management, systems and programming, computer operations, data integrity, and teleprocessing. The nature and significance of the weaknesses identified indicate the need for strong management attention and action in order to improve the overall condition of the facility to an acceptable level of control. It is recommended that the inexperienced staff be augmented with a person experienced in instituting sound security and control measures. The Directors are reminded that until the deficiencies in contingency planning have been corrected, they can not fulfill their responsibility to review and approve management's assessment of how a loss of EDP support would impact the bank's operations and the methods that management has employed to reduce or eliminate such risk.

Since the March, 1983 examination, the bank has increased its equity capital by $1,200,000 through the sale 100,000 shares of common stock. This was done in accordance with its five year plan dated December, 1982. Total capital is now 6.4% of total assets which places the bank in Zone 2 of the capital guidelines of the Office of the Comptroller of the Currency. This level is acceptable when consideration is given to the capital plan, moderate payment of dividends, and the overall satisfactory condition of the institution.

The quality of assets continues to be satisfactory. Substantial improvement is noted in the loan portfolio where criticized credits represent 31% of gross capital funds compared to 68% at the last examination. Delinquencies, however, have increased to 6.9% of the portfolio compared to 3.1% at the last examination. Past due loans are concentrated in the commercial loan area. Loans lacking current financial information have declined sharply from 16.6% of gross loans to 6.3% at this review. The bank's reserve for possible loan losses is considered adequate. The investment portfolio consists of good quality issues and has an appreciation of $176,000. U.S. Government and Agency obligations make up 83.5% of the account and the balance consists of municipal issues. Maturities are on the short side with 66% of the portfolio coming due within one year.

Supervision by the Board of Directors and senior management is considered fair. Chairman of the Board Chuang continues to exert a strong influence over each area of the bank. Management succession is not apparent at this time. Although the present senior management team is handling its responsibilities, deficiencies reflected throughout this report indicate that continued growth of the bank will require additional experienced administrative support.

The bank's earnings continue to be fair. Although earnings for 1983 increased 77% over the prior year, the return on assets amounted to only .68%. Advertising and other operating expenses are extremely high for this institution and it is recommended that the Board of Directors review these accounts closely.

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capital infusion, after deduction of losses charged-off at this review. This raises the level of capital into the lower end of Zone II of the Comptroller of the Currency's Capital Guidelines. Although this is a substantial improvement, the bank is still not adequately capitalized. Furthermore, earnings are not yet sufficient, in relation to growth, to maintain capital at present levels much less increase capital to the desired 7% level as prescribed in the Guidelines. Management stated that they will apply, before year-end, for a one bank holding company which they believe will facilitate future equity offerings and/or debt capital. Notwithstanding the proposed holding company, it is strongly recommended that the Board develop a realistic and timely formal capital plan to augment capital through a combination of strengthened earnings and additional equity capital.

Earnings have shown significant improvement from the $493,999 (ROA .55%) net income in 1982. For the seven months ended July 31, 1983 earnings had increased to $567,000. The 1983 June revised budget projects net income of approximately $1,300,000. These earnings would result in an ROA in excess of 1%. However, predicated on results to date the projection appears optimistic. Based on the seven month results, 1983 net profit will be approximately $1,000,000 computed on average assets estimated to be $125,000,000 for the full year and ROA will be approximately .8%. In addition, the June revised projection represents a decrease from the original 1983 estimate of $1,880,000. In view of the marginal capital base, strong earnings are imperative. The Board and management are urged to take vigorous action to reduce costs wherever possible and maximize yields to establish a strong earnings stream necessary to sustain the bank's heretofore rapid growth.

The unbalanced 30 day rate sensitivity position (ratio of rate sensitive assets to rate sensitive liabilities) cited at last examination has been largely corrected with a reduction from a negative gap of $23,000,000 to $4,725,000. The 180 day gap is now in positive position at $13,140,000, slightly over 10% of total assets. The reduction of the substantial negative gap is commendable. However, management and the Board are reminded that there is interest rate risk with a positive or negative gap. Although the risk has been lessened, the bank should not reduce efforts to maintain the ratio of rate sensitive assets to rate sensitive liabilities near equilibrium or one.

The overall quality of management is considered fair but improving. Although senior management advised that there is now a plan for succession, there does not appear to be anyone in house fully capable of succeeding President Chuang. The continued fair condition of the bank, although improved, coupled with failure to adhere to prescribed law and regulation and inability to meet or come close to projected earnings, suggest the need for additional expertise. The Board should give consideration to a review of the adequacy of management and determine if additional talent may be necessary to more effectively manage the bank.

Many of the criticisms of the bank are related to the historical growth rate. Areas such as capital, earnings and loan quality could be improved during a pause in this rapid expansion. Therefore, the Board should consider whether a more controlled rate of growth might facilitate correction or alleviation of these problems.

The comments and recommendations in this report have been discussed with management. The Board is requested to review its contents and institute corrective action where appropriate.

Robert A. White
National Bank Examiner

Director for Bank Supervision

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Charter No. 16646

LETTER TO THE BOARD OF DIRECTORS

A targeted examination commenced July 27, 1984 using financial information as of June 30, 1984. The review focused particular attention upon earnings, capital, management supervision and the lending area with abbreviated updates performed in other areas of interest. A consumer affairs and EDP update examination were conducted with this review and appropriate comments are included in this report.

The overall condition of the bank is considered fair. Although improvement is noted in some areas, sufficient deterioration has occurred to indicate a modest reversal of the positive trend cited at the prior examination. Earnings and capital exhibited deterioration and are fair and inadequate, respectively. Supervision by the Board and management is fair. Asset quality is satisfactory while liquidity is good. Consumer compliance and EDP activities have improved and are considered satisfactory and fair respectively. The bank, as it was at the last examination, is in compliance with the Memorandum of Understanding dated Dec-10-80.

Earnings have declined sharply since the last examination. This is due principally to the year-end 1983 occupancy of the new main office coupled with the inability to sublease the upper two floors of the new building and the continued vacancy of the old main office. Other factors include narrowed margins and the overhead associated with the opening of two additional representative offices. The present earnings level is inadequate to replenish the capital base or to adequately support growth. If the bank is to continue to grow and prosper, management and the Board must devise a viable strategy to improve earnings.

Primary capital as a percentage of total assets has declined to 6.1% and is considered inadequate. If earnings continue at the present pace, the capital ratio will decline below 6% by year-end without tight control of asset growth. Management is again faced with a need to increase capital through external sources. Presently they are in the process of applying for a holding company reportedly to facilitate a capital sale. However, unless the bank wishes to continually be forced to go to the market for capital, the Board and management must devise a coordinated plan to maintain capital at a satisfactory level and at the same time maintaining a controlled well planned growth rate.

Chairman of the Board Chuang continues to exert a strong influence over each area of the bank. Management and the Board have not provided adequate long range planning as exhibited by the weaknesses noted in the earnings and capital areas. Management and the Board also exhibited some lack of familiarity with reports submitted to them. These reports are meant to assist the Directors and not to merely satisfy OCC requests. Management succession is not apparent at this time. Although senior management is handling their responsibilities reasonably well, deficiencies noted in this report suggest that sustained growth will require additional experienced administrative support.

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LETTER TO THE BOARD OF DIRECTORS - Continued

Total criticized assets have shown a slight decline to 46% of gross capital funds compared with 48% at the prior examination. However, criticized loans as a percentage of gross capital funds increased modestly to 37% from 31%. This increase is mitigated by a decline in severity of classifications of the loans. Part of management's strategy to improve earnings is to increase the loan portfolio. Although this increase in criticized loans is not indicative of a deterioration in credit standards, management must remain alert to this possibility when attempting to rapidly expand the loan portfolio. At the same time management is urged to not diminish their efforts in improving the quality of the existing portfolio.

Current and projected levels of liquidity are considered good. Several deficiencies in the area of funding strategies remain uncorrected from prior examinations. The Board should review these recommendations and take corrective action. The Directorate should also increase their involvement with and supervision of funding activities.

The condition of the data processing activity has improved from the last examination. However, a number of deficiencies still remain unresolved and require further management attention. These deficiencies are detailed in the "Other Schedules - Internal Control Deficiencies" section of this report. The hiring of an experienced data processing manager in May-1984 is primarily responsible for this improvement. He has given adequate consideration to all matters noted during the last examination and corrected the majority of deficiencies. Management has promised to resolve the remaining deficiencies by year-end 1984. The Directors are again reminded that they must review management's assessment of how a loss of EDP support would impact the bank's operations and the methods management has employed to reduce or eliminate such risk and/or impact.

The banks compliance with consumer fair lending and community laws is satisfactory. No violations of laws or regulation were detected during the examination and last examinations' violations have been corrected. The bank's performance under the Community Reinvestment Act (CRA) is also satisfactory. The delineation of these communities is considered reasonable. However, it is recommended that the CRA statement be expanded to include the representative offices in California, Illinois, Massachusetts and Texas.

Progress is noted in several areas. However, the deficiencies cited in the earnings and capital areas will inhibit future growth. If it is the Board's intention to continue sound and orderly growth, these two areas must receive the prompt attention of the Board.

Robert A. White
National Bank Examiner

Roberta Wagner
Acting Director for Bank Supervision

Charter No. 16646

LETTER TO THE BOARD OF DIRECTORS

A comprehensive examination commenced February 11, 1985 utilizing financial information as of December 31, 1984. The examination was performed using procedures as outlined by the Comptroller of the Currency. These procedures were designed to evaluate the soundness of the institution and its record of compliance with laws and regulations. It also permitted an appraisal of the quality of management and Directorate supervision. A concurrent review of Electronic Data Processing and Consumer activities was performed with findings consolidated in this report.

The overall condition of the bank remains fair. Earnings improved while capital slightly deteriorated and are fair and inadequate respectively. Supervision by the Board and management is fair. Asset quality is satisfactory and improved. Liquidity remains high. Consumer compliance remains satisfactory while EDP activities are considered less than satisfactory. The bank is considered to be in compliance with the Memorandum of Understanding dated Dec-1-80.

Earnings rebounded in the last six months of 1984. The recovery is due largely to an increased volume of higher yielding loans accomplished through asset growth and redistribution of earning assets. The heavy overhead continues to be a drag on earnings. The impact on earnings should be reduced through the leasing of bank premises assets. However, questions concerning the legality of the bank's plans to lease the old main office land have been raised and the matter is being researched by District Counsel. Notwithstanding, earnings continue to be insufficient to adequately replenish the capital base or to support growth. If the bank is to continue its projected growth rate, management and the Board must devise a viable strategy to improve earnings.

Primary capital as a percentage of total assets has further declined to 6.1% and is considered inadequate. If growth earnings continue at the projected rate, the capital ratio will decline below 6.0%. Management is faced with the necessity that new capital will have to be obtained. Through the recently formed holding company management states that approximately $3.5MM will be obtained by April 1985 for the bank which should restore the capital ratios to an acceptable level. The bank has developed a preliminary capital plan. However, the second and third phase of the plan are contingent upon regulatory approval of the institution's application for five non-bank banks. If approval is not forthcoming the Board and management must devise an alternative plan to maintain capital at a satisfactory level and concurrently maintain a controlled, planned growth rate.

Chairman of the Board Chuang continues to exert a dominant influence on the bank. Management and the Board previously had not provided adequate long range planning. This area is being addressed by pending negotiations to lease vacant space and the planned capital infusion. However, management continues to exhibit some unfamiliarity with reports submitted to them. These reports are meant to assist the Directors and not to merely satisfy OCC requests. Management concurred and agreed to restructure the reports in a more useful format without sacrificing substance. Management succession is not apparent and the Board has no formalized plan. It is recommended that the Board address this matter and consider formulating a succession plan. Although senior

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Charter No. 16646

LETTER TO THE BOARD OF DIRECTORS
(Continued)

management is handling their responsibilities reasonably well, deficiencies noted in this report suggest that continued planned growth will require additional experienced administrative support.

Total criticized assets have shown a substantial decline from 46% of gross capital funds to 26% at this examination. Part of managements' ongoing strategy to improve earnings is to increase the loan portfolio. The portfolio has increased 21% to $77MM. The growth, coupled with the decline in criticized assets, appears to indicate that management has not compromised or deviated from their credit standards for the sake of loan growth.

Current and expected levels of liquidity are good. The deficiencies noted at prior examination in the area of funds management have largely been corrected. However, substantial short term negative rate sensitivity positions coupled with the declining net interest margins could have a significant negative impact upon earnings, particulary in a volatile rate environment. This, in view of the bank's already weak earnings performance, is cause for concern and should receive management and the Board's attention to formulate corrective strategies.

Electronic data processing activities and related management are considered fair. Work is processed on a timely basis, however, inadequate attention has been devoted to correcting past deficiencies. Significant changes in hardware and software are planned in the near future. There is insufficient manpower to adequately research and implement planned changes. Correction of data processing weaknesses and adequate staffing requires a commitment from the Board to bring this function to a satisfactory level of performance.

The results of the Consumer Compliance review disclosed the compliance position of the bank is satisfactory. There were no substantive violations of law or regulations pertaining to consumer legislations. The bank's performance regarding the Community Reinvestment Act is considered satisfactory. The bank has expanded their CRA statement to include representative offices.

Several violations of law were disclosed including: 12 USC-75, Election of Directors and; two violations of 31 CFR 103.22, Financial Recordkeeping; as well as violations of the Banks Articles of Association and By-Laws. Management and the Board are reminded of their responsibility to assure compliance with applicable laws and regulations. For further clarification refer to the Violations of Law section of this report.

Progress is noted in several areas. The deficiencies cited in the earnings and capital areas will inhibit future growth. The planned enhancements of these two areas, when they occur, should provide a much stronger base upon which the bank can resume the continuation of sound and orderly growth. These matters, as well as the others cited herein and elsewhere in this report require the timely corrective action of management and the Board.

Robert A. White
National Bank Examiner

Roberta [illegible]
Director for Bank Supervision

EXHIBIT 2

Banks Requiring Special Supervisory Attention

(Comments by Regional Administrator for
Examinations from 1980 to 1984)

BANKS REQUIRING SPECIAL SUPERVISORY ATTENTION

(Group Rated 3, 4, 5)

PRIORITY

NAME OF BANK Golden Pacific National Bank REGION NO. 2 CHARTER NO. 16586

CITY New York STATE New York

COMMENTS:

Identification and Nature of Problem

Inadequate supervision by both the Board and management has led to an escalation of classified assets, an inadequate loan loss reserve, operations and reconcilement problems, and an excessive volume of internal control exceptions. The loan account is administered almost exclusively by the bank's president, Joseph Chuang, who demonstrates an unwillingness to delegate responsibility. An inordinate volume of credits lack adequate supporting credit information or are subject to collateral/documentation exceptions. Numerous accounting deficiencies, regulatory report errors, and inadequate reports to the Board are additional problems that illustrate weaknesses in the bank's management system and support staff. Also, the bank's budget is not effectively monitored.

The bank lacks written policies in several key areas, some of which represent relatively new activities for the bank: credit card loans, direct lease financing, and gold transactions. The bank's auditor is burdened with operational duties and is inadequately trained. Also, the audit program is deemed inadequate. Several violations of law exist.

Corrective Action

With the exception of a special $430,000 provision made to the bank's loan loss reserve to restore it to an adequate level, little corrective action has been effected. Management displayed an unenthusiastic attitude toward OCC personnel while they were in the bank during the examination. Problems will be reviewed with the full Board at a meeting to be held in the near future. At that time, the Board will be requested to enter into a Memorandum of Understanding addressing all significant areas of concern. Included in the Memorandum will be the requirement for a management plan, development of written policies or policy supplements where needed, and internal control and audit improvements.

The bank has recently submitted an application to increase capital by $550M through the sale of common stock. Monthly progress reports consisting of financial, operating, and asset quality data will commence shortly.

General

The bank opened in 1977 and operates one branch. It does not operate its own EDP facilities, nor does it have fiduciary powers. The immediate service area consists of the New York City Chinatown community; however, a significant volume of bank business is directed through relationships developed at its representative offices in Los Angeles, California, and Taipei, Taiwan. Strong competition is provided by local branches of other larger New York City banks.

In view of the problems apparent at this examination as described above, it is recommended that the bank be included in the Special Projects program and that a "3" rating be assigned.

Rating: 3 ✓

By: Thomas W. Taylor
Regional Administrator
(Date: Nov 14 80

Special Projects:
Require a draft of Memorandum of Understanding modified and concurred with.

Concur: J E [illegible]
NBE — Special Projects
(Date: 12/4/80)

Concur: John M. Connell
Director, Special Projects
(Date: 12/7/80

INSTRUCTIONS:

(1) This memorandum should be completed and forwarded for all banks rated 3, 4, or 5 at the conclusion of each examination. Comments should be made under the following headlines: *Identification and Nature of Problems, Corrective Action,* and *General.* If additional space is needed use reverse side. See Examining Circular No. 180.

(2) Forward to: Comptroller of the Currency, Attention: Special Projects Division, Washington, D.C. 20219

(3) Use "PRIORITY" routing stamp.

CC 8080-04

SEMI-ANNUAL SUMMARY AND UPDATE
BANKS REQUIRING SPECIAL SUPERVISORY ATTENTION
(GROUP RATED 3, 4 or 5)

Golden Pacific National Bank	2	16646
(Name of Bank)	(Region No.)	(Charter No.)

New York	New York
(City)	(State)

Controlling Owner Directors and their families Percent Ownership 26%

(Show Prior Three Examination Data)

Date of Exam	Apr-9-78	Jan-23-79	Jun-16-80
Total Assets	$10MM	$14MM	$29MM
Rating	2	1	3
Formal E & C Action	None	None	None

Period Covered: Second Half 1980 Date Prepared: January 21, 1981

"Remarks"

Nature of Problem

Inadequate supervision by both the Board and management led to an escalation of classified assets, an inadequate loan loss reserve, operations and reconcilement problems, and an excessive volume of internal control exceptions. The loan account is administered almost exclusively by the bank's president, Joseph Chuang, who demonstrates an unwillingness to delegate responsibility. An inordinate volume of credits lack adequate supporting credit information or are subject to collateral/documentation exceptions. Numerous accounting deficiencies, regulatory report errors, and inadequate reports to the Board are additional problems that illustrate weaknesses in the bank's management system and support staff. Also, the bank's budget is not effectively monitored.

The bank lacks written policies in several key areas, some of which represent relatively new activities for the bank: credit card loans, direct lease financing, and gold transactions. The bank's auditor is burdened with operational duties and is inadequately trained. Also, the audit program is deemed inadequate. Several violations of law exist.

Earnings

Net income for the eleven months ended November 30, 1980 was $261M. This result includes an examiner-directed $430M special loan loss provision during the third quarter, which was required to restore the valuation reserve to an adequate level following large increases in classified assets. The bank's growth continues with net loans increasing by $2MM and total deposit growth of $12MM during the six months following the commencement of the June 1980 examination. Liquidity is high with excess deposit monies currently invested in Federal Funds.

Corrective Action/Outlook

A comprehensive Memorandum of Understanding was signed December 10, 1980 addressing all significant areas of concern. Included in the Memorandum are the requirement for a management plan, development of written policies or policy supplements where needed, and internal control and audit improvements. Management displayed an unenthusiastic attitude toward OCC personnel while they were in the bank during the examination, but has provided lengthy and comprehensive response material to the memorandum. This correspondence is presently being reviewed in the Regional Office.

Golden Pacific National Bank	2	16646
(Name of Bank)	(Region No.)	(Charter No.)

Monthly progress reports consisting of financial, operating, and asset quality data have been commenced. A specialized examination was begun January 19, 1981.

SP Division

Deputy Regional Administrator of National Banks

SPECIAL PROJECTS ADDENDUM:

INSTRUCTIONS:

(1) Complete on each bank rated 3, 4 or 5 and forward within thirty days of the end of each semi-annual period. Remarks should be made under the following headings: Nature of Problem, Earnings, and Corrective Action/Outlook. See Examining Circular No. 160.

(2) Forward to: Comptroller of the Currency, Attention: Special Projects Division, Washington, D.C. 20219

(3) Use "PRIORITY" routing stamp.

SEMI-ANNUAL SUMMARY AND UPDATE
BANKS REQUIRING SPECIAL SUPERVISORY ATTENTION
(GROUP RATED 3, 4 or 5)

Golden Pacific National Bank	2	16645
(Name of Bank)	(Region No.)	(Charter No.)
New York	New York	
(City)	(State)	

Controlling Owner None Percent Ownership -

(Show Prior Three Examination Data)

Date of Exam	Jun-16-80	Jan-19-81	Jul-6-82
Total Assets	$29,193M	$45,827M	$92,323M
Rating	3	2	3
Formal E & C Action	Memorandum of Understanding	Memorandum of Understanding	Memorandum of Understanding

Period Covered: Second Half 1982

Date Prepared: January 29, 1983

Nature of Problem

Inadequate supervision by both the Board and management led to an increase in classified assets, an inadequate loan loss reserve, operations and reconcilement deficiencies and an excessive volume of internal control exceptions. Written policies were lacking in several key areas; the bank's auditor was inadequately trained; and the audit program was deemed inadequate. Composite rating "3" was assigned, and a Memorandum of Understanding was executed on December 10, 1980.

The latest examination reflects deterioration in the bank's overall condition as a result of ineffective management during a period of rapid asset and deposit growth. Overall management is deemed fair, with both the President and Cashier considered overburdened. Other officers presently lack the level of expertise and experience required for their positions. The bank's senior lending officer resigned since the last examination. The level of classified assets has significantly increased, currently representing 38% of GCF. 21% at Jan-81 specialized examination. The level of criticized has also increased, with assets considered OAEM representing 24% of GCF. These increases are the direct result of liberal lending and a desire to significantly expand the loan portfolio.

Losses identified at this examination depleted the reserve for loan losses necessitating an immediate $150M provision. Loan deligneuncies have been trending upward, reflecting a need for strengthened collection efforts.

Capital is presently inadequate. Asset growth continues to outpace equity growth, (asset growth rate averages 60% vs. a 25% equity growth rate). Recent MRR's reflect a primary capital ratio of 5.9% vs. 6.84% at examination date.

Despite an excellent liquidity position, rapid expansion results in ineffective funds management practices. Increased reliance on six month money market certificates at a time of limited loan demand, led to a strategy which included heavy investment in the overnight federal funds market, (representing 53% of total assets on Jun-30-82). Inordinate short term gaps, left the bank susceptible to interest rate fluctuations.

(Continued)

Golden Pacific National Bank	2	16646
(Name of Bank)	(Region No.)	(Charter No.)

Earnings

Earnings are considered fair, negatively impacted by funds mangement practices, high levels of operating expenses and heavy porvisions for loan losses. Net income through Oct-82 aggregated $562M reflecting a .75% ROA net results for the year indicated net income of $624M.

Corrective Action/Outlook

A Memorandum of Understanding was executed on Dec-10-80. Although the bank was found to be in substantial compliance with the Memorandum of Understanding, its overall condition has declined to a level which is less than satisfactory. Articles IX and XIV, repectively addressing APLL adequacy and violations of law are in non-compliance. Actions have been initiated, addressing most areas of concern. Regular management meetings and various training sessions have been instituted, in an effort to enhance mid-management expertise.

The bank's funds management policy has been amended, with the present goal of narrowing maturity gaps. Net interest earnings have reflected an upward trend during the months of September and October, as have bottom line results. The APLL policy has been revised and is now considered satisfactory. A new collection unit was established duing the examination; improved recovery and past due levels are anticipated. Most violations of law were corrected during the examination.

The bank is developing a capital plan which envisions the sale of 100,000 shares of authorized but unissued stock at a price of $13 (total $1,300,000) during the first quarter of 1983. Formation of a holding and the possible sale of an additional 100,000 shares during the second half of 1983 is also being considered. The bank will submit its final capital plan to the Regional Office within the next month.

The corrective measures inticiated by management, mitigates the need for additional administrative action at this time. The effectiveness of bank policies will be monitored by the Regional Office via montnly reports. An examination will be scheduled for the first quarter 1983.

General

The bank opened in 1977 and operates one branch along with representative offices in Los Angeles, California; Houston, Texas; and Taipei, Taiwan. The bank does not have fiduciary powers, but is operating its own EDP system. The immediate service area consists of the New York City Chinatown community, with strong competition provided bny local branches of other larger New York City banks. A significant volume of business is generated and directed through the representative offices.

Other Matters and Potential Areas of Concern

Subsequent to the Jun-80 examination, several questionable activities in the bank were investigated. The investigation was commenced on Jan-26-81, as per instructions detailed in a Jan-22-81 memorandum from DRAE Bodnar. Other matters were disclosed which potentially affected the overall condition and operations of the bank. The potential areas of concern were:

- allegations of "insiders" being granted preferental terms;
- improper and questionable transactions by certain officers;
- several check-kiting schemes;

(Continued)

Golden Pacific National Bank	2	16646
(Name of Bank)	(Region No.)	(Charter No.)

Other Matters and Potential Areas of Concern - (Continued)

- o non-notification of change in bank control;
- o threatened or pending court action on behalf of a substantial stockholder to set aside actions taken at the Apr-22-81 shareholders meeting electing the directors and authorizing an increase of additional shares of stock;
- o transactions involving dividend checks and payments to [redacted]
- o chinese newspaper article indicating Taiwanese authorities are investigating the Taiwan representative office which may have been opened without proper authority. Also, suspicious transactions involving credit card charge slips and circumvention of foreign exchange rules.

Invesitation findings were referred to the U. S. Attorney's office; the lates report of examination has been subpoenard.

In light of the continued areas of concern and the matters cited in Other Matters section above. The bank will remain subject to Special Supervisory Attention.

AAJ:hvv

Michael A Carnover
Regional Director for Special Surveillance

SPECIAL PROJECTS ADDENDUM:

No comments necessary, summary and update complete.

INSTRUCTIONS:

(1) Complete on each bank rated 3, 4 or 5 and forward within thirty days of the end of each semi-annual period. Remarks should be made under the following headings: Nature of Problem, Earnings, and Corrective Action/Outlook. See Examining Circular No. 160.

(2) Forward to: Comptroller of the Currency, Attention: Special Projects Division, Washington, D.C. 20219.

(3) Use "PRIORITY" routing stamp.

BANKS REQUIRING SPECIAL SUPERVISORY ATTENTION

(Group Rated 3, 4, 5)

NAME OF BANK Golden Pacific National Bank REGION NO. 2 CHARTER NO. 16646

CITY New York City STATE New York

COMMENTS:

Identification and Nature of Problem

Rapid growth combined with inadequate supervision by both the Board and management have produced significant deficiencies in several areas of the bank. Overall management is considered fair. Management in the lending area is considered weak, lacking in depth, and in need of an experienced senior lending officer to properly supervise the increased volume of the portfolio. The bank's lending policy has been amended and identifies the lending authority and limits of various officers. The ultimate approval of loans however, remains with President Chuang. Violations of law are again cited and primarily attributed to carelessness and unfamiliarity with banking laws and regulations on the part of senior management. Violations of Interpretive Ruling 7.5225 are repeated although Chairman and President Chuang contends they should not be considered violations. The credit files of the respective borrowers however, clearly indicate the possibility of check-kiting schemes. Losses at this examination resulting from extensions of credit in excess of the bank's legal lending limit may result in this Office's request to the Board to indemnify such losses.

Staff turnover between examinations (and subsequent to the close of this examination) may require additional strengthening in the bank's operations area. The audit function was deemed unsatisfactory at the prior examination. The internal auditor, who joined the bank at the end of that examination, resigned shortly after the close of this examination. He was considered to be lacking in audit skills and audit experience. The internal controls are considered adequate. Capital, earnings and liquidity are considered satisfactory at this examination.

Corrective Action

A Memorandum of Understanding was executed on December 10, 1980. Progress is noted in the improvement of the overall condition of the bank. Various plans and policies submitted to this Office, as required by the Memorandum of Understanding, along with required revisions and amendments thereto, are indicative of management's sincere attempt to comply with each article of the Memorandum. Compliance with most of the articles has been achieved. Areas of substantial compliance include: lack of current and satisfactory credit information and internal control deficiencies. The only area of non-compliance concerns violations of law, which are corrected at the previous examination, but have recurred.

General

The bank opened in 1977 and operates one branch along with representative offices in Los Angeles, California; Houston, Texas; and Taipei, Taiwan. The bank does not have fiduciary powers, but is operating its own EDP equipment. (The initial EDP examination was recently completed and the report of examination is presently being processed.) The immediate service area consists of the New York City Chinatown community, with strong competition provided by local branches of other larger New York City banks. A significant volume of business is generated and directed through the representative offices.

In view of the compliance with most of the articles of the Memorandum, and the continuing improvement in other areas of the bank, it is recommended that the December 10, 1980 Memorandum of Understanding be terminated. Based on the overall financial condition of the

Continued:

Rating: ✓ 2

By: __________
Regional Administrator
(Date: 2-2-81)

Special Projects:

Concur: __________
NBE — Special Projects
(Date: 1-6-82) (per memorandum 12-21-81)

Concur: __________
Director, Special Projects
(Date: 1/11/82)

INSTRUCTIONS:

(1) This memorandum should be completed and forwarded for all banks rated 3, 4, or 5 at the conclusion of each examination. Comments should be made under the following headlines: *Identification and Nature of Problems, Corrective Action,* and *General.* If additional space is needed use reverse side. See Examining Circular No. 160.

(2) Forward to: Comptroller of the Currency, Attention: Special Projects Division, Washington, D.C. 20219

(3) Use "PRIORITY" routing stamp.

CC [illegible]-04

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bank a "Satisfactory" rating is warranted. However, due to repeated violations of law and the possibility of requesting indemnification of an "84 violation", and other areas of concern, continued inclusion in the Special Projects Program is warranted.

Other Matters and Potential Areas of Concern

Since the previous examination several questionable activities in the bank have been investigated. The investigation was commenced on January 26, 1981, as per instructions detailed in a January 22, 1981 memorandum from Deputy Regional Administrator for Examinations John A. Bodnar. Other matters have been disclosed which may also significantly affect the overall condition and operations of the bank. The potential areas of concern are:

- allegations of "insiders" being granted preferential terms;
- improper and questionable transactions by certain officers;
- several check-kiting schemes;
- non-notification of change in bank control;
- threatened or pending court action on behalf of a substantial stockholder to set aside actions taken at the April 22, 1981 shareholders meeting electing the directors and authorizing an increase of additional shares of stock;
- transactions involving dividend checks and payments to [redacted]
- Chinese newspaper article indicating Taiwanese authorities are investigating the Taiwan representative office which may have been opened without proper authority. Also, suspicious transactions involving credit card charge slips and circumvention of foreign exchange rules.

Although the overall condition of the bank continues to improve, the above matters warrant continued monitoring and close supervisory attention.

JC:eld

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BANKS REQUIRING SPECIAL SUPERVISORY ATTENTION

(Group Rated 3, 4, 5)

NAME OF BANK Golden Pacific National Bank REGION NO. Two CHARTER NO. [illegible]

CITY New York City STATE New York

COMMENTS:

IDENTIFICATION AND NATURE OF PROBLEM:

Inadequate supervision by both the Board and management led to an increase in classified assets, an inadequate loan loss reserve, operations and reconcilement deficiencies and an excessive volume of internal control exceptions. Written policies were lacking in several key areas; the bank's auditor was inadequately trained; and the audit program was deemed inadequate. Composite rating "3" was assigned, and a Memorandum of Understanding was executed December 10, 1980.

Although various deficiencies continued to exist, significant progress was subsequently noted, such that the bank's overall condition was deemed satisfactory. With the exception of recurring violations of law, compliance with most of the articles had been achieved.

The latest examination reflects deterioration in the bank's overall condition as a result of ineffective management during a period of rapid asset and deposit growth. Overall management is deemed fair, with both the President and the Cashier considered overburdened. Other officers presently lack the level of expertise and experience required for their positions. The bank's senior lending officer resigned since the last examination.

The level of classified assets has significantly increased, currently representing 38% of GCF, 21% at the Jan-81 specialized examination. The level of criticized has also increased, with assets considered OAEM representing 24% of GCF. These increases are the direct result of liberal lending and a desire to significantly expand the loan portfolio.

Losses identified at this examination depleted the reserve for loan losses necessitating an immediate $150M provision. Loan delinquencies have been trending upward, reflecting a need for strengthened collection efforts.

Despite an excellent liquidity position, rapid expansion resulted in ineffective funds management practices. Increased reliance on six month money market certificates at a time of limited loan demand, led to a strategy which included heavy investment in the overnight federal funds market, (representing 53% of total assets on Jun-30-82). Inordinate short term gaps, left the bank susceptible to interest rate fluctuations. Earnings are considered fair, negatively impacted by funds management practices, high levels of operating expenses and heavy provisions for loan losses. Net income through Oct-82 reflects a ROA of .76.

Capital is presently inadequate Asset growth continues to outpace equity growth, (asset growth rate averages 60% vs. a 25% equity growth rate). Recent MPR's reflect a primary capital ratio of 5.9% vs. 6.84% at examination date.

CORRECTIVE ACTION

A Memorandum of Understanding was executed on Dec-10-80. Although the bank was found to be in substantial compliance with the Memorandum of Understanding, its overall condition has declined to a level which is less than satisfactory. Articles IX and XIV, respectively addressing APLL adequacy and Violations of Law are in non-compliance. Actions have been initiated, addressing most areas of concern. Regular management meetings and various training sessions have been instituted, in an effort to enhance mid-management's expertise.

(continued)

Rating: ☐

By: John A Bodner
Deputy Regional Administrator
(Date: 1/4/83)

Special Projects: [illegible]

Concur:
NBE — Special Projects
(Date: 1-28-83)

Concur: Thomas C. McAllister
Deputy Director, Special Projects
(Date: 1/28/83)

INSTRUCTIONS:

(1) This memorandum should be completed and forwarded for all banks rated 3, 4, or 5 at the conclusion of each examination. Comments should be made under the following headlines: *Identification and Nature of Problems, Corrective Action,* and *General.* If additional space is needed use reverse side. See Examining Circular No. 160.

(2) Forward to: Comptroller of the Currency, Attention: Special Projects Division, Washington, D.C. 20219

(3) Use "PRIORITY" routing stamp.

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CORRECTIVE ACTION (continued)

The bank's funds management policy has been amended, aiming toward narrowed maturity gaps. Net interest earnings have reflected an upward trend during the months of September and October, as have bottom line results. The APLL policy has been revised and is now considered satisfactory. A new collection unit was established during the examination; improved recovery and past due levels are anticipated. Most violations of law were corrected during the examination.

The bank is developing a capital plan which envisions the sale of 100,000 shares of authorized but unissued stock at a price of $13 (total $1,300,000) during the first quarter of 1983. Formation of a holding company and the possible sale of an additional 100,000 shares during the second half of 1983 is also being considered. The bank will submit its final capital plan to the Regional Office within the next month.

The corrective measures initiated by management, mitigates the need for additional administrative action at this time. The effectiveness of bank policies will be monitored by the regional office via monthly reports. An examination will be scheduled for the first quarter 1983.

GENERAL

The bank opened in 1977 and operates one branch along with representative offices in Los Angeles, California; Houston, Texas; and Taipei, Taiwan. The bank does not have fiduciary powers, but is operating its own EDP system. The immediate service area consists of the New York City Chinatown community, with strong competition provided by local branches of other larger New York City banks. A significant volume of business is generated and directed through the representative offices.

The bank's overall condition is considered fair and a composite rating of "3" is assigned.

OTHER MATTERS AND POTENTIAL AREAS OF CONCERN

Subsequent to the Jun-80 examination, several questionable activities in the bank were investigated. The investigation was commenced on January 26, 1981, as per instructions detailed in a January 22, 1981 memorandum from Deputy Regional Administrator for Examinations John A. Bodnar. Other matters were disclosed which potentially affected the overall condition and operations of the bank. The potential areas of concern were:

- allegations of "insiders" being granted preferential terms;
- improper and questionable transactions by certain officers;
- several check-kiting schemes;
- non-notification of change in bank control;
- Threatened or pending court action on behalf of a substantial stockholder to set aside actions taken at the April 22, 1981 shareholders meeting electing the directors and authorizing an increase of additional shares of stock;
- transactions involving dividend checks and payments to [redacted]
- chinese newspaper article indicating Taiwanese authorities are investigating the Taiwan representative office which may have been opened without proper authority. Also, suspicious transactions involving credit card charge slips and circumvention of foreign exchange rules.

Investigation findings were referred to the U.S. District Attorney's office; no action has been taken to date.

AMJ:eld

BANKS REQUIRING SPECIAL SUPERVISORY ATTENTION

(Group Rated 3, 4, 5)

900 fil

NAME OF BANK Golden Pacific National Bank REGION NO. 2 CHARTER NO. 11646

CITY New York STATE New York

COMMENTS:

IDENTIFICATION AND NATURE OF PROBLEMS

The overall [illegible] of the bank is again considered fair. Capital remains inadequate [illegible] primary base currently representing 5.4% of total assets. [illegible] indicates that management has initiated some corrective measures regarding deficiencies previously cited. Numerous deficiencies remain of concern to this Office, particularly in view of management's continued rapid expansion plans. Most deficiencies are centered in the lending area where a continued trend toward liberalized lending practices is noted. The level of criticized loans has increased, to 68% of GCF vs 59% at last examination. Other loan related deficiencies include: an increased level of loans lacking adequate credit information; inexperienced credit analysts; and an inadequate loan review function.

The ROE reflects a repeat violation of 12 U.S.C. 84, while the previous violation of 12 C.F.R. 209.3 remains uncorrected. A CMP referral has been made on the violations of 12 C.F.R. 209.3 and is under review by District Counsel.

Earnings are considered fair. Significant improvement was noted during first quarter 1983, with net earnings representing a 1.2% ROA. The ability to consistently perform at such a level remains questionable, in view of the $93M (66%) net income decline experienced between the months of March and April.

Overall compliance with consumer matters is consider fair, with the internal control system considered marginally adequate. While the violations of law cited in the speciality report are primarily technical in nature, the violations of Regulation Z have resulted in a reimbursable situation ($100M estimated). Additionally, the violations of Regulation B and the Fair Credit Reporting Act are subject to the Supervisory Enforcement Policy for The Equal Credit Opportunity Act and The Fair Housing Act.

The overall condition of the EDP function is considered fair, and in need of improvement. The level of progress regarding previously identified serious deficiencies in management or internal controls has been untimely.

The report indicates the quality of supervision over the loan portfolio, and the bank as a whole has significantly improved, to a satisfactory level. That assessment is pre-mature considering the lack of management depth noted and the deficiencies detailed above. Management/Administration is assigned a "3" rating.

(Continued)

PRIORITY

Rating: 3 ✓

By: John A Bodnar
Deputy Regional Administrator for Examinations
(Date: 6-6-83)

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Special Projects

Concur:
HBE — Special Projects
(Date: 6-28-83)

Concur:
Director, Special Projects
(Date: 6-29-83)

INSTRUCTIONS:

(1) This memorandum should be completed and forwarded for all banks rated 3, 4, or 5 at the conclusion of each examination. Comments should be made under the following headlines: *Identification and Nature of Problems, Corrective Action*, and *General*. If additional space is needed use reverse side. See Examining Circular No. 160.

(2) Forward to: Comptroller of the Currency, Attention: Special Projects Division, Washington, D.C. 20219

(3) Use "PRIORITY" routing stamp.

CC [illegible]-04

CORRECTIVE ACTION

Compliance with the Memorandum, dated December 10, 1980 is cited in the report with the exception of Article XIV. Repeated and new violations of law are again noted. Non-compliance with Articles VII and IX were not cited since: stricter standards were reportedly used regarding current credit information than was actually needed; and the minimum assessment factors enumerated in the article are being considered. Effective measures regarding loan delinquencies are apparently in place, as evidenced by recent past due level.

Capital inadequacy is being addressed, with a $1.2MM application for the sale of common stock, presently pending with BOSD. The successful sale of that issue, would strengthen the capital base; an approximate 6.4% pcap ratio would then be attained. The present level of classified assets would then represent 33% of GCF, a level considered more reasonable Year-to-date earnings approxmiate a 1.0% ROA, and supports capital. These factors presently mitigate a need for additional enforcement action. It should be noted, however, that with the region considering management an area of concern, the near term attainment of a 6.4% pcap ratio is insufficient to support continued rapid expansion plans. A corporate leverage approach is presently considered appropriate with this institution, and will be pursued with regard to the Elmhurst branch application.

The bank will continue to receive close supervisory attention, through monthly progress reports, the examination process, and additional correspondence regarding the speciality areas.

GENERAL

The bank opened in 1977 and operates one branch along with representative offices in Los Angeles, California; Houston, Texas; and Taipei, Taiwan. The bank does not have fiduciary powers, but is operating its own EDP system. The immediate service area consists of the New York City Chinatown community, with strong competition provided by local branches of other larger New York City banks. A significant volume of business is generated and directed through the representative offices.

OTHER MATTERS AND POTENTIAL AREAS OF CONCERN

Subsequent to the Jun-80 exam., several questionable activities in the bank were investigated. The investigation was commenced on Jan-26-81, as per instructions detailed in a Jan-22-81 memorandum from DRAE Bodnar. Other matters were disclosed which potentially affected the overall condition and operations of the bank. The potential areas of concern were:

- o allegations of "insiders" being granted preferental terms;
- o improper and questionable transactions by certain officers;
- o several check-kiting schemes;
- o non-notification of change in bank control;
- o threatened or pending court action on behalf of a substantial stockholder to set aside actions taken at the Apr-22-81 shareholders meeting electing the Directors and authorizing an increase of additonal shares of stock;
- o transactions involving dividend checks and payments to [redacted]
- o chinese newspaper article indicating Taiwanese authorities are investigating the Taiwan representative office which may have been opened without proper authority. Also, suspicious transactions invovling credit card charge slips and circumvention of foreign exchange rules.

Investigation findings were referred to the U. S. Attorney's Office ; a meeting with the Examiner has been scheduled for early June.

In light of the continued areas of concern and the matters cited in the Other Matters section above, the bank will remain subject to Special Supervisory Attention. Composite "3" rating is assigned.

AMJ:hvv

BANKS REQUIRING SPECIAL SUPERVISORY ATTENTION
(Group Rated 3, 4, 5)

NAME OF BANK Golden Pacific N/B REGION NO. 2 CHARTER NO. 16646

CITY New York STATE New York

COMMENTS:

IDENTIFICATION AND NATURE OF PROBLEMS

Although continued improvement is noted, the bank's overall condition is presently considered fair. An inadequate capital base was augmented during the examination, to a level considered marginally adequate. Despite this improvement the bank's earnings capacity, considered fair, appears insufficient to further strengthen the capital base. In light of continued rapid expansion objectives, further strengthening of the capital structure through external sources, is needed. Management quality is considered fair in view of the lack of successor management, continued violations of law and weaknesses in the bank's financial performance. Asset quality remains satisfactory with total criticized representing 60% of GCP. The loan review function remains inadequate consisting of a review of delinquent obligations. Liquidity is satisfactory.

CORRECTIVE ACTION

The bank remains in substantial compliance with the MOU dated Dec-80. Violations of law have again resulted in non-compliance with Article XIV of the document. Improvement is noted regarding most areas of concern. Capital has been augmented, and is considered marginally adequate. Though earnings remain fair an improved ROA is noted. The lending function has been strengthened, with no new loan criticisms cited at this visitation. The continuation of positive trends will be monitored via the monthly progress reports. Additionally, an updated capital plan will be requested.

GENERAL

The bank opened in 1977 and operates one branch along with representative offices in Los Angeles, California, Houston, Texas and Taipei, Taiwan. The bank does not have fiduciary powers, but is operating its own EDP system. The immediate service area consists of the New York City Chinatown community, with strong competition provided by local branches of other larger New York City banks. A significant volume of business is generated and directed through the representative offices. The filing of an application to establish a bank holding company, is anticipated in the near-term.

OTHER MATTERS AND POTENTIAL AREAS OF CONCERN

Subsequent to the Jun-80 exam , several questionable activities in the bank were investigated. The investigation was commenced on Jan-26-81, as per instructions detailed in a Jan-22-81 memorandum from former DRAE Bodnar. Other matters were disclosed which potentially affected the overall condition and operations of the bank. Investigation findings were referred to the U. S. Attorney's Office; a meeting with the Examiner was held in early June, 1983. At the request of that office, a second meeting has been scheduled for Sep-83.

(Continued)

Rating: 3 ✓

FILED

By:
Director for Bank Supervision
(Date: 10-03-83)

Special Projects:

Concur: P. Michael Younger
NBE — Special Projects
(Date: 10-15-83)

Concur: Thomas C. McAllister
Deputy Director, Special Projects
(Date: 11/3/83)

INSTRUCTIONS:

(1) This memorandum should be completed and forwarded for all banks rated 3, 4, or 5 at the conclusion of each examination. Comments should be made under the following headlines: *Identification and Nature of Problems, Corrective Action,* and *General.* If additional space is needed use reverse side. See Examining Circular No. 180.

(2) Forward to: Comptroller of the Currency, Attention: Special Projects Division, Washington, D.C. 20219

(3) Use "PRIORITY" routing stamp.

OTHER MATTERS AND POTENTIAL AREAS OF CONCERN

Indications are the bank is trending toward an overall condition which is satisfactory. Management weaknesses, however, have previously resulted in an inability to sustain such trends, without the benefit of close supervision by this Office. Trends regarding the bank's overall condition and management capabilities will be thoroughly assessed at the next examination. At that time removal from the SP program will be considered.

In view of the remaining weaknesses and prior trends, a composite "3" rating is again recommended.

AMJ:hvv

RECEIVED
OCT 17 1983
PROJECTS

BANKS REQUIRING SPECIAL SUPERVISORY ATTENTION
(Group Rated 3, 4, 5)

NAME OF BANK Golden Pacific National Bank REGION NO. N. E. CHARTER NO. 16646

CITY New York STATE New York

COMMENTS:

IDENTIFICATION AND NATURE OF PROBELMS

The report indicates the bank's overall condition is satisfactory. Asset quality, also considered satisfactory, has significantly improved with total criticized credits representing [illegible] of GCF versus 68% at last examination. Although commercial loan delinquencies are at an unacceptable level (reduced to 10% during examination) indications are this deficiency is being addressed by management. Earnings are considered fair. Fiscal 1983 net income of $874M (.68% ROA) represents a 77% increase over the prior year's results. However, previously cited earnings fluctuations continue, as evidenced by an approximate .44% ROA for 1984's first quarter. A continued need to strengthen asset/liability management practices, and supervision of the budgeting process is evident. The bank's liquidity position is good.

Capital is considered adequate. At Mar-30-84, primary capital represented 6.6% of total assets, versus 6.4% at examination date. Despite projected growth rates, MPR's indicate management is attempting to maintain an asset growth rate commensurate with earnings retainage.

The overall quality of supervision provided by management and the Directorate is presently considered fair. Deficiencies reflected throughout the report, including the lack of successor management and the unsatisfactory condition of the EDP area evidence a need for additional strengthening of the administrative process. Continued expansion will specifically require additional experienced administrative support.

PRIORITY

CORRECTIVE ACTION

The bank is considered in full compliance with the MOU dated Dec-80. Despite a satisfactory condition, the ROE reflects weaknesses in the financial performance, administrative process and EDP areas which merit the District's attention. A need to monitor the bank's growth performance particularly regarding the loan portfolio, is also evident. Accordingly, the bank will be requested to submit the following reports, on a monthly basis, to the District Office: a comparative balance sheet and income statement; past due loan summary indicating delinquent loans by department and in aggregate; and a reconcilement of the APLL. A formal written response indicating proposed corrective measures and implementation timeframes regarding EDP deficiencies detailed in the ROE, will be requested.

GENERAL

The bank opened in 1977 and operates three branches along with representative offices in Los Angeles, California, Houston, Texas and Taipei, Taiwan. The bank does not have fiduciary powers, but is operating its own EDP system. The

(Continued)

Rating: 2 ✓

By:
Director for Bank Supervision
(Date: 5-24-84)

Special Projects:

Concur:
NBE — Special Projects
(Date: 6/27/84) [illegible]

Concur:
Director, Special Projects
(Date: 7/30/84)
Leave — SP under MOU
until next exam.

INSTRUCTIONS:

(1) This memorandum should be completed and forwarded for all banks rated 3, 4, or 5 at the conclusion of each examination. Comments should be made under the following headlines: *Identification and Nature of Problems, Corrective Action*, and *General*. If additional space is needed use reverse side. See Examining Circular No. 180.

(2) Forward to: Comptroller of the Currency, Attention: Special Projects Division, Washington, D.C. 20219

(3) Use "PRIORITY" routing stamp.

CC [illegible]

GENERAL - (Continued)

immediate service area consists of the New York City Chinatown community, with strong competition provided by local branches of other larger New York City banks. A significant volume of business is generated and directed through the representative offices. FRB of N. Y. has accepted and is processing the bank's application to establish a one bank holding company.

OTHER MATTERS AND POTENTIAL AREAS OF CONCERN

Subsequent to the Jun-80 exam, several questionable activities in the bank were investigated. The investigation was commenced on Jan-26-81, as per instructions detailed in a Jan-22-81 memorandum from former DRAE Bodnar. Other matters were disclosed which potentially affected the overall condition and operations of the bank. Investigation findings were referred to the U. S. Attorney's Office; two meetings have since been held with representatives of that office. Recent discussions indicated commencement of a grand jury investigation is anticipated in the summer of 1984.

The report indicates the bank's overall condition is satisfactory, accordingly a composite "2" rating is recommended. Having attained full compliance with the requirements of the MOU, termination of the document is recommended. However, the bank's financial performance, EDP deficiencies and potential action by the U. S. Attorney's Office warrant continued monitoring by the District Office. Accordingly, monitoring via the Special Projects Program should continue.

AMJ:hvv

RECEIVED
JUN 14 1984
SPECIAL PROJECTS

Special Projects comments:

I concur with the District's recommendation to terminate the MOU but continue monitoring the bank through the Special Projects program.

I do not agree that the bank has attained full compliance with the MOU or at least the spirit of the MOU. The ROE indicates several times that management succession for Chairman of the Board and President Chuang is not apparent at this time. Article I of the MOU required a management plan, which addressed among other topics, management succession. The ROE also cites the need for another senior officer with responsibilities for general administrative duties. The bank has also identified the need for this position in its reorganization plan. It appears that such an officer is becoming more critical in view of the several management deficiencies noted in the ROE and the size and growing complexity of the bank.

The ROE states that capital is adequate. However, capital remains pressured by poor earnings, management deficiencies and continued growth. The examiner should not have referred to OCC capital guidelines since the capital guidelines do not apply to banks that are subject to the special supervisory attention of this Office. It is noted that the bank's capital plan calls for controlled growth and further capital augmentation in 1984.

Notwithstanding the above comments, the MOU has served its principal purposes and should be terminated. The above deficiencies as well as the EDP problems and weak financial performance support the continued close monitoring of the bank via the Special Projects program.

Addendum

June ROR showed further leverage of capital & loan growth PC 6.2%. Situation discussed with DRA S Carr 7/26. He concurred w/ Special Projects continuing concerns regarding bank. Agreed to leave bank in SP program with MOU in place until after next exam. 7/26

BANKS REQUIRING SPECIAL SUPERVISORY ATTENTION
(Group Rate 3, 4, 5)

NAME OF BANK Golden Pacific National Bank DISTRICT Northeast CHARTER NO. 16646

CITY New York STATE New York

COMMENTS

PRIORITY

IDENTIFICATION AND NATURE OF PROBLEMS

Significant problems are noted with respect to lower earnings and increased capital leverage, which have reversed the positive trends noted at prior examinations. These problems are related to the lack of effective long term planning on the part of senior management and the Board. Accordingly, the overall level of supervision is considered fair.

Earnings problems emanate from high overhead associated with six representative offices and a new head office. Additionally, problems have been encountered in disposing of, or leasing, the old head office. For the first six months of 1984, occupancy expense increased to $932M from $276M at the prior period. Net income, which was 48% below budget, produced an ROA of .38% which compares with .70% at year end '83. For nine months '84, net income was $413M (ROA .40%). Therefore, attaining full year '84 budgeted net income of $858M (ROA .61%) is considered unrealistic.

The combination of lower earnings and higher loan growth rates have leveraged the capital base to an inadequate level. The primary ratio, currently at 6.17%, could drop below 6% by year end if present trends continue. Of further concern is that fact that the bank will probably be required to capitalize a lease (of approximately $3.5MM) related to the new head office. On a pro-forma basis. This would result in a primary capital ratio of approximately 6% at Sep-84.

Asset quality remains satisfactory. The SP ratio declined to 33.7% from 40.8% at the last exam, and classified assets to GCP is well controlled at 21% versus 34% previously. Past due and non accrual loans are also at reasonable levels.

Liquidity remains good, however, criticisms regarding gap limits and Board supervision in this area remain uncorrected. Improvement was noted with respect to compliance management and data processing activities.

CORRECTIVE ACTION

The Bank remains in compliance with the Memorandum of Understanding dated Dec-80. Management plans to form a holding company which they feel will facilitate raising the additional capital needed to support current operations and growth objectives. We will monitor progress and, if necessary, we will recommend formal enforcement action in this area. In the interim we have requested that management prepare and submit long term strategic and capital plans. We have also requested a revised '84 earnings projection and the '85 budget. These, as well as all, matters of concern will be discussed with the Board at a later date.

NAME OF BANK Golden Pacific National Bank DISTRICT Northeast CHARTER NO. 16646

CITY New York STATE New York

GENERAL

The Bank opened in 1977 and operates three branches along with five representatives offices in the United States and one in Taiwan. They have their own EDP system but exercise no fiduciary powers.

Based on a structural earnings problem, a leveraging capital base and the failure of management and the Board to provide effective long term planning, a composite rating of "3" is recommended.

√ Rating: 3

By: Loretta N. Wagner
Acting Director for Bank Supervision
(Date: 11-28-84)

Special Projects:

Concur: R. Michael [illegible]
NBE-Special Projects
(Date: 10/19/84)

Concur: Gary M. Porter
Director, Special Projects
(Date:)

CC 9060-04

Trend of increased leverage not acceptable. As noted by the District, stronger administrative action may become necessary. Primary capital had declined to 5.40% as of 12/31. Fed has approved formation of a HC. Capital reportedly will be raised by HC and downstreamed to bank. Details to be addressed by capital plan to be submitted. Plan requested by 12/31.

Do not concur that bank is in compliance with MOU. Bank does not have increased management or management succession plan as required by Article I of MOU.

OCC has notified bank of opinion that lease should be capitalized. Bank researching matter. Will follow-up to ensure proper booking of transaction.

Criticized assets (loans) not supported by comments (write-ups) as required by sections 215 and 600 of Comptroller's Handbook for National Bank Examiners.

Holding company now approved and in formation stages. May *still* require "urging" from OCC to bring Capital in line.

File

BANKS REQUIRING SPECIAL SUPERVISORY ATTENTION
(Group Rated 3, 4, 5)

NAME OF BANK Golden Pacific National Bank DISTRICT Northeast CHARTER NO. 16646

CITY New York STATE New York

COMMENTS

IDENTIFICATION AND NATURE OF PROBLEMS

The Bank's overall condition remains fair, as does the overall quality of supervision and administration. Senior management and the board have failed to provide adequate long term planning and direction, as evidenced by earnings and capital weaknesses. Management succession remains lacking and the directorate has been found to be unfamiliar with reports presented to them.

Earnings are considered fair, negatively impacted by a decreasing net interest margin combined with high overhead costs. 1984 net income of $809M (ROA .58%) was $55M above the 1983 level (ROA .61%). However, final results were favorably impacted by a $94M gain on municipal security sales and a $41M reduction in applicable income taxes. Net operating revenues actually decreased $80M from year to year. High overhead costs emanate, in part, from a new head office and the bank's representative office structure. Further problems were encountered in disposing of the former main office. Current plans to lease this space raises questions of compliance with 12 USC 29. A legal opinion has been requested under separate cover.

Capital is considered inadequate to support further growth. High loan and asset growth rates, combined with the low earnings streams have resulted in a strained capital position. The primary capital ratio, which currently rests at 6.1%, is projected to decrease to 5.7% at year end 1985 if external sources of capital are not obtained. Note: the bank had been advised the lease, of approximately $3.5MM related to its head office, qualified as a capitalized lease and should be reflected on the bank's books as such. The leasing terms have since been modified, in an effort to avoid the capitalization requirement. The District has requested, and is awaiting, an opinion of the OCC's Accounting Division regarding the acceptability of said modifications. On a proforma basis, capitalization of the lease would result in a 5.9% primary and total capital level.

Asset quality is satisfactory and improving. Classified assets represent 18.4% of GCP; delinquencies are modest at 2.6% of gross loans. Liquidity is good and asset/liability management practices are considered adequate. However, it was recommended that additional management reports be introduced.

EDP activities remain only fair. Deficiencies cited include: insufficient efforts to correct previously cited weaknesses; inadequate staffing and; inadequate contingency planning. Consumer Compliance and CRA practices are satisfactory.

NAME OF BANK Golden Pacific National Bank DISTRICT Northeast CHARTER NO. 16646

CORRECTIVE ACTION

The bank remains in general compliance with the Memorandum of Understanding dated Dec-80. Recent MPR's reflect earnings improvements, with first quarter results approximating a 1% ROA. While the capital ratios remain at 6.1%, continued rapid loan growth has resulted in an aggregate portfolio the size of which exceeds year-end 1985 projections. Continued unreliability and/or nonadherence to the bank's planning process is evident.

A holding company was formed in Jan-85, with the intent of facilitating the raising of capital. With the investment firm of Smith Barney, formulation of a viable capital plan is in process including negotiations for the private placement of a $5MM subordinated debenture, in the near-term. At examination date, management anticipated that the funds would be available by April with $3.5MM downstreamed to the bank. During recent discussion, President Chuang reported that the bank's annual shareholders meeting is scheduled for Apr-17-85, at which time approval for a 400M increase in authorized common stock is anticipated. Appropriate OCC applications will then be filed with finalization of the capital infusion expected within two months. Management was advised that immediately upon acceptance by the Board, the formal written capital plan, to be prepared by Smith Barney, should be submitted to the District Office. Formulation of a strategic plan will also be requested.

General

The Bank opened in 1977 and operates three branches along with five representative offices located in: California (2), Massachusettes, Illinois, Texas and Taiwan. A significant amount of loan transactions are generated through these offices. An IBF is also operated. The Bank has no fiduciary powers, but continues to operate it's own EDP system. Golden Pacific Bancorp., established in Jan-85, presently owns 90.3% of the Bank. The Corp. has applied for approval for five non-bank banks. Management has additionally stated that an application process has commenced with the Hong Kong Gov't., in an effort to establish a financial institution in that country.

Based upon earnings weaknesses, a leveraged capital base, and only fair supervision , a continuation of a "3" composite rating is recommended. Although the MOU does not specifically address the cited concerns, the document should remain in [illegible]. Continued inclusion in the SP program is warranted.

MAY 9 1985
SPECIAL PROJECTS

✓Rating: 3
Non-Delegated
No Action
(Follow up on suggested Fraud

By: ______
Director for Bank Supervision
(Date: 5/6/85)

Special Projects:

Concur: ______
NBE-Special Projects
(Date: 5/2/85)

Concur: Thomas C. McAllister
Deputy Director, Special Projects
(Date: 5/22/85)

If capital due, not forthcoming, we should proceed with new Adm action.

BEST COPY AVAILABLE

EXHIBIT 3

0

MEMORANDUM OF UNDERSTANDING BY AND BETWEEN GOLDEN PACIFIC NATIONAL BANK, NEW YORK, NEW YORK, AND THE REGIONAL ADMINISTRATOR OF NATIONAL BANKS, SECOND NATIONAL BANK REGION, NEW YORK, NEW YORK

PRIORITY

It is agreed by and between the Golden Pacific National Bank, New York, New York (hereinafter the "BANK"), through its duly elected and acting Board of Directors (hereinafter the "BOARD"), and the Regional Administrator of National Banks for the Second National Bank Region (hereinafter the "REGIONAL ADMINISTRATOR"), that the BANK shall comply with the following articles:

ARTICLE I

(1) Within sixty (60) days of the effective date of this Memorandum, the BOARD shall prepare a detailed and comprehensive management plan. This plan shall include an evaluation of present management and staffing requirements and a determination as to the need of appointing capable new officers and employees. The plan shall include written position descriptions indicating the duties and responsibilities of each key officer including, but not limited to, the rank of Cashier, Controller, Senior Loan Officer, Auditor, and each officer including and above the level of Vice President.

The plan shall adequately address the following areas:

- (a) measures to improve the quality of operations and credit administration;
- (b) quality and distribution of support staff in lending and operating areas; and
- (c) management succession.

(2) A copy of this plan shall be submitted to the REGIONAL ADMINISTRATOR for his review and approval.

ARTICLE II

(3) Within ninety (90) days of the effective date of this Memorandum, the BOARD shall review its written lending policy and amend or supplement it, where necessary, and submit it to the REGIONAL ADMINISTRATOR for his approval. At a minimum, supplements to the policy shall address or expand upon the following areas, as appropriate:

(a) concentrations of credit;

(b) leasing activity;

(c) credit card loans;

(d) charge-off policy; and

(e) loans to directors, officers, employees, insiders and their related interests.

ARTICLE III

(4) Within ninety (90) days of the effective date of this Memorandum, the BOARD shall prepare a written policy covering the BANK's gold activities, which shall be submitted to the REGIONAL ADMINISTRATOR for his review. At a minimum, the plan shall address the following:

(a) individual customer commitment/position limits;

(b) need for written customer confirmations;

(c) overall bank position limits;

(d) accounting procedures for gold-related transactions;

(e) accounting procedures for periodic revaluation of gold and gold-related accounts; and

(f) management reports to the BOARD.

(5) Upon written notification by the REGIONAL ADMINISTRATOR, the BANK shall implement the above policies and/or policy supplements and shall strictly adhere to them.

ARTICLE IV

(6) Within thirty (30) days of the effective date of this Memorandum, information provided by management to the BOARD shall be improved. At a minimum, reports covering the following activities or situations shall be initiated or improved as appropriate:

(a) progress reports on criticized credits and reports on potential problem credits;

(b) provide accurate delinquency reports;

(c) complete overdraft reports;

(d) gold activities;

(e) liquidity; and

(f) comparison of operating performance to budget.

ARTICLE V

(7) Within thirty (30) days of the effective date of this Memorandum, the BANK shall submit to the REGIONAL ADMINISTRATOR a written program for the elimination of all assets from criticized status.

(8) The BANK shall not loan additional money or otherwise extend credit to any borrower whose loan or other extension of credit has been criticized, in whole or in part, in the Report of Examination dated June 16, 1980 (hereinafter the "REPORT") so long as the credit remains criticized.

(9) The preceding paragraph shall not be deemed applicable if failure to take such action by the BANK should be detrimental to the best interest of the BANK. Before any such action is taken, however, the BOARD or a designated committee shall place in the credit file of the borrower a statement, signed by a majority of the directors, detailing why such action is deemed necessary. A copy of this statement shall be mailed upon execution to the REGIONAL ADMINISTRATOR.

ARTICLE VI

(10) Within thirty (30) days of the effective date of this Memorandum, the BANK shall submit to the REGIONAL ADMINISTRATOR a written program to improve collection procedures in order to reduce the level of delinquent loans.

ARTICLE VII

(11) The BANK shall take all necessary steps to obtain and maintain current and satisfactory credit information on all obligations listed as lacking such information in the REPORT or any subsequent REPORTS The BANK shall not grant any new loans or otherwise make commitments or extend credit without first obtaining and maintaining current and satisfactory credit information.

ARTICLE VIII

(12) The BANK shall take all necessary steps to correct the imperfections pertaining to the securing of collateral on all obligations listed as Collateral Exceptions in the REPORT or any subsequent REPORTS.

ARTICLE IX

(13) The BOARD shall conduct a comprehensive review of the BANK's Allowance for Possible Loan Losses, no less frequently than on a quarterly basis, to ensure that said Allowance is maintained at an adequate level. Each review shall include, at a minimum, a written analysis of the loss potential in the loan account, including consideration of:

(a) all loans criticized in the REPORT or any subsequent REPORTS:

(b) delinquent and non-accrual loans;

(c) all other loans known by management to exhibit problem characteristics; and

(d) the bank's historic loan loss experience.

(14) The BOARD shall promptly forward copies of these reviews to the REGIONAL ADMINISTRATOR for his review.

ARTICLE X

(15) The BANK shall take immediate steps to correct the deficiencies found in its internal controls and detailed in the REPORT or any subsequent REPORTS.

ARTICLE XI

(16) Within ninety (90) days of the effective date of this Memorandum, the BOARD shall review its written audit program and amend or supplement it where necessary and submit it to the REGIONAL ADMINISTRATOR for his approval. At a minimum, amendments to the program shall address procedures for audit for the following areas:

(a) leasing activities;

(b) letters of credit and acceptances;

(c) credit card loans; and

(d) gold transactions and activities.

(17) Within ninety (90) days of the effective date of this Memorandum, the BOARD shall take measures to ensure the effectiveness of the internal audit function by instituting the following improvements:

(a) limitation of the auditor's activities solely to those functions involving the role as Auditor, consistent with the designated duties and responsibilities of this position as addressed in the BANK's management plan prepared pursuant to Article I; and

(b) efforts to improve the technical capabilities of the Auditor through additional training.

ARTICLE XII

(18) Within ninety (90) days of the effective date of this Memorandum, the BOARD shall provide the REGIONAL ADMINISTRATOR with a written plan describing its plans regarding expansion of the BANK's fixed assets, and resolution of the BANK's capitalized expenses incurred in connection with the main office premises.

ARTICLE XIII

(19) Within sixty (60) days of the effective date of this Memorandum, the BOARD shall submit to the REGIONAL ADMINISTRATOR a written policy concerning transactions with directors, officers, principal shareholders, and their related interests, including transactions with members of their families and their related interests. Such written policy should ensure that all such transactions are entered into on an arms-length basis.

ARTICLE XIV

(20) The BANK shall immediately undertake such actions as are necessary to correct each violation of statute, rule, or regulation noted in the REPORT. As each violation is corrected, the BANK shall notify the REGIONAL ADMINISTRATOR of the manner of said correction and procedures employed to ensure non-recurrence of similar violations.

ARTICLE XV

~~(21) The BANK shall take all appropriate action to ensure that all BANK reports, records, files, and documentation are prepared in the English language.~~

The provisions of this Memorandum shall continue in full force and effect until, unless, or inasmuch as such provisions shall be modified, suspended, waived, or terminated by mutual consent of the BOARD and the REGIONAL ADMINISTRATOR.

In testimony whereof, the undersigned have hereunto set their hand.

Thomas W. Taylor — December 10, 1980
THOMAS W. TAYLOR — Date
Regional Administrator

Dec. 10, 1980
David T. Y. Chen — Date

LIN CHEN — Dec. 10, 1980
Lin Chen — Date

Dec 10, 1980
Joseph K. C. Chuang — Date

Stanley Jepong Den — 12/10/80
Stanley Jepong Den — Date

12/10/80
Suei-Rong Hueng — Date

Chau-Shin Hsu — Date

Cheng Tsu Wu — Date

Exhibit 4

Cadwalader, Wickersham & Taft

One Wall Street

New York, N.Y. 10005

Telephone (212) 785-1000
Cable Address Ladycourt
Telex 129106 1667665
Rapifax (212) 269-2321
Xerox (212) 785-1630

July 10, 1981

Thomas W. Taylor
Regional Administrator
of National Banks
Second National Bank Region
1211 Avenue of the Americas
Suite #250
New York, New York 10036

Re: Golden Pacific National Bank

Dear Mr. Taylor:

As you know, a specialized examination of our client, Golden Pacific National Bank, was conducted during the period from January 19 through February 27, 1981. Several comments concerning alleged violations of law and regulation were included in the Report of Examination. Dr. Chuang, the president of the bank, disagrees with certain of these comments and he has asked us to respond on behalf of the bank.

The Examiners indicated that, in two instances, the lending limits imposed by 12 USC §84 were exceeded. Specifically, the Report states that, as of December 17, 1980, loans in the amount of $725,481 to were outstanding, resulting in an excess of $352,123 over the lending limit. As of the same date, outstanding loans to amounted to $445,153, $71,795 being excessive. However, the bank contends that the total amount of loans to each borrower was well within the lending limit of $373,358.

With respect to , we understand that a stand-by Letter of Credit in the amount of $330,000 was in effect on December 17, 1980. However, based upon the information provided by the management of the bank, it is our opinion that the other items listed should not be considered loans to . First, we understand that the "acceptance sold" in the amount of $175,481 consisted entirely of eligible acceptances which had been sold by the bank to its customers. Under these circumstanes, the acceptances should not be treated as loans. Second, we understand that the $220,000 entry represents a loan to a purchaser of an acceptance, not to . Golden Pacific had accepted a draft drawn by and then discounted and rediscounted the acceptance sometime prior to December 17, 1980. The purchaser of the acceptance then pledged it to the bank as security for the loan. Due to a bookkeeping error, this transaction was recorded as a loan to rather than a loan to the owner of the acceptance. The loan was repaid on February 18, 1981 and the acceptance was returned to its owner. In summary, it is our understanding that, as of December 17, 1980, outstanding loans to did not exceed the lending limit.

In the case of , the $71,795 listed as excessive is entirely attributable to an overdraft of $221,153. This overdraft was caused by the action of another bank, which dishonored checks in a manner inconsistent with the Uniform Commercial Code. Golden Pacific has instituted litigation against the bank responsible for this overdraft. Assuming that a technical violation of the lending limit occurred, it was the result of the negligence of another bank and clearly not approved by Golden Pacific.

With respect to investment in bank premises, the Report indicates that the bank is currently in compliance with 12 USC §371(d). In the Report, expenses incurred in connection with the construction of the bank's future headquarters were added to investment in bank premises, resulting in an excess over the bank's capital stock. As noted in the Report, the bank has been reimbursed for these expenses. It is the bank's position that, in view of the anticipated reimbursement, the expenses should not have been treated as an investment by the bank. On the other hand, if such reimbursement were considered doubtful, it is the bank's position that the expenditures should have been treated as expenses rather than capital investment.

Interpretive Ruling 7.5225 requires that a written report be made to the Regional Administrator, as well as to the F.B.I. and the United States Attorney, when any known or suspected check kiting operation has taken place. In the two instances listed in the Report, we understand that the officers of the bank did not believe that there were reasonable grounds to suspect a check kiting operation. Moreover, in each case, we understand that this opinion was shared by the officers of the other banks affected by the alleged kiting scheme.

Finally, the Examiners asserted that certain funds invested by the bank on behalf of its customers should be considered deposits. If the funds were considered deposits, the series of violations cited in the Report would necessarily result. However, as evidenced by written agreements between the bank and the customers, it is clearly understood that these funds are not deposits, that they are not insured and that any losses incurred in the investment of such funds will not be reimbursed by the bank. We understand that the bank accepts the funds as an agent for its customers and that, at the direction of the customers, the funds are invested in various instruments, including the bank's acceptances. The investments are, of course, not treated as assets of the bank. We have been advised by the Legal Division of the Federal Reserve Bank of New York that, under the facts as we understand them, these funds are not "deposits" and that, accordingly, the bank is not required to maintain reserves against them. We also understand that the acceptances purchased with the customers' funds are eligible acceptances. Therefore, the sale of such acceptances by the bank should not be considered loans.

In summary, it appears that several of the comments concerning violations may not have been warranted and that the remaining violations have been corrected.

The Report of Examination indicates that Golden Pacific is generating good earnings and that it has a good investment portfolio with very good liquidity. The officers of the bank hope to preserve its good earnings record. They plan to increase the equity capital of the bank which, as stated in the Report, is only adequate at the present time. The bank's officers also recognize that it is important for the future of the bank to maintain a good relationship with the Office of the Comptroller. They intend to use their best efforts to deal with the matters discussed in the Report and, hopefully, to continue the growth of the bank and its service to the Chinese community in New York.

If you have any questions or comments with respect to the foregoing, please do not hesitate to contact us.

Sincerely yours,

Eugene M. Cronin

Eugene M. Cronin

EMC:fr

Exhibit 5

FEDERAL RESERVE BANK OF NEW YORK

NEW YORK, N.Y. 10045

AREA CODE 212-791-5000

December 4, 1981

Mr. Kuang Hsung J. Chuang
Chairman and President
Golden Pacific National Bank
241 Canal Street
P. O. Box 591
New York, New York 10013

Dear Mr. Chuang:

Our review of the Comptroller of the Currency's Report of Examination dated January 19, 1981 has disclosed that you have not reflected as deposits certain funds that must be reported on your "Report of Transaction Accounts Other Deposits and Vault Cash" (Form 2900) as reservable liabilities.

According to the report, your institution has been selling its own acceptances to customers, who keep funds in a custodian account for this purpose. It appears that since these acceptances are being rediscounted, they would constitute loans, while customers' funds would be deposits. Since your reports failed to properly reflect these entries, we are requesting that you ask your staff to reexamine the matter and submit revised reports (FR 414s or FR 2900s) by December 14, 1981 for the periods in error.

We fully realize that this request may prove burdensome to your organization. After you have had an opportunity to assess the magnitude of this omission, my staff is available to advise you on completing your revised reports expeditiously. Should you have any questions regarding this matter or wish to discuss it further, please call Jane Katz of this office at (212) 791-5250, as soon as possible.

Very truly yours,

John M. Eighmy
Assistant Vice President
Accounting Function

Exhibit 7

COMPTROLLER QUESTIONS TO EIC

Examiner-in-charge: Robert White

Special Projects Personnel:

What are Capital Funds, including the Reserve for Possible Loan Losses? $ 9 089 031

What is the dollar amount of non-booked deposit liabilities discovered during your examination? $ 15 723 962

Have these non-booked deposit liabilities been verified? ______

How? Physical discovery of papers styled 'certificates of deposit" issued by bank

Are you aware of any non-booked assets? yes ______

Do you have the information necessary to verify the non-booked assets? NO ______

Has the bank been asked to provide documentation on the non-booked assets? numerous times ______

Has the bank cooperated in providing you documentation concerning the non-booked assets? Nothing provided ______

What would the resultant capital funds be if the deposit liabilities were booked today? (6 634 931)

Has the bank been provided an opportunity to ~~recapitalize the bank~~? produce non-booked assets or provide sufficient cash to cover the amt of the deficiency? yes

In your opinion, do you have enough information to conclude that the bank is solvent? NO ______

Declared Insolvent on the basis of the facts relayed throughout the day in conversations with staff in New York and Washington who had personal and other knowledge of the condition of the bank and the opinion of counsel concerning the bank's liability for the non-booked certificates of deposit. Michael Pa 6/21/85 10:20 pm

BEST COPY AVAILABLE

Exhibit 8

FEDERAL RESERVE BANK
OF NEW YORK

OFFICE MEMORANDUM

DATE July 3, 1985

TO

SUBJECT Reg. D Questions Raised by "Yellow Certificates" Issued by Golden Pacific National Bank

FROM

COPY

This is in response to your request for a memorandum on the question whether so-called "yellow certificates" issued by Golden Pacific National Bank (copy attached) are reserveable time deposits for purposes of Regulation D,[1] and whether they are comparable to obligations of Golden Pacific arising from the rediscount of eligible bankers' acceptances, which obligations the Legal Department previously opined were not subject to reserve requirements.

CONCLUSION

In my opinion it is clear that these yellow certificates are time deposits and subject to reserve requirements, and that, for purposes of Regulation D, they are fundamentally different from the acceptance obligations that were the subject of the Department's previous opinion.

DISCUSSION

A. The Acceptance Obligations

In the previous transaction, Golden Pacific sold eligible acceptances of Golden Pacific to sophisticated customers. The customers placed funds in a custodial account in Golden Pacific's trust department and the entire amount of such funds were invested in eligible acceptances. The customer did not receive any interest from Golden Pacific on the funds placed in the account; the customer's return was confined to what was earned on the acceptances purchased.

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[1] 12 C.F.R. § 204.

COPY

Ms. Motylewski opined2/ that Golden Pacific's obligations arising from the rediscount of eligible acceptances were not "deposits" for purposes of Regulation D. This opinion was evidently based on an express provision in Regulation D3/ and was, in my view, clearly correct.

B. The Yellow Certificates

The "yellow certificates" state that the named person has delivered funds to Golden Pacific and that the principal amount with interest at a specified rate will be paid at maturity upon presentment of the certificate. They are labelled as non-negotiable certificates. Regulation D defines "deposit" to include the "unpaid balance of money . . . received . . . by a depository institution . . . which is evidenced by an instrument on which the depository institution is primarily liable."4/ In my opinion the yellow certificates, evaluated in accordance with the terms that appear on the face of the certificates, are within the quoted definition of deposit and bear no resemblance to the acceptance purchases that were the subject of the Department's prior opinion.

The last sentence of the certificate provides that it is subject to the terms and conditions of an agreement between the person named on the certificate and the bank. I am not aware of the contents of any such agreement and therefore cannot determine whether the terms of the agreement would alter the opinion expressed above.

The following statements are also typed faintly on the certificate. "Funds held by the bank are not deposits. Therefore

---

2/ Legal Department memorandum from Joyce E. Motylewski to Legal Files (March 9, 1982).

3/ Section 204.2(a)(1)(vii)(E) excepts from the definition of deposit any obligation of a depository institution that arises from the creation, discount and subsequent sale by a depository institution of its bankers acceptance of the type described in paragraph 7 of section 13 of the Federal Reserve Act [*i.e.*, an eligible bankers acceptance].

4/ 12 C.F.R. § 204.2(a)(1).

are not insured by the FDIC." These statements would not exempt from reserve requirements an obligation that is otherwise a "deposit", with an exception not relevant in this case.5/

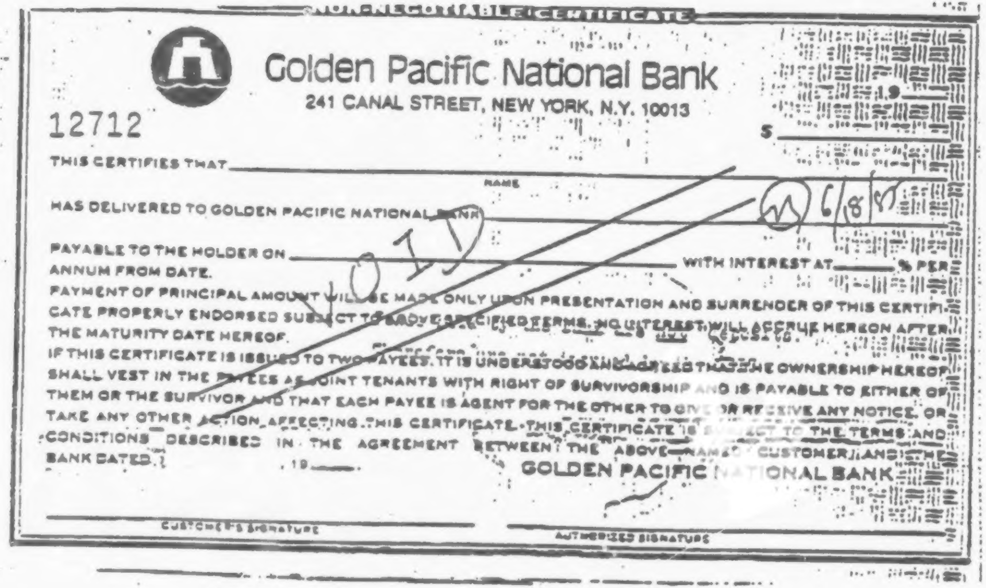
GR/pjf gr

Attachment

cc: Messrs. Corrigan
Timlen
Oltman
Schadrack
Thieke
O'Sullivan
Ringsmuth
Ms. Motylewski

COPY

5/ Certain subordinated debt obligations are excepted from the definition of deposit if they satisfy a number of requirements, one of which is a statement in boldface type that the obligation is not a deposit and not insured by the FDIC. The yellow certificates do not meet the other criteria, such as that the obligation state on its face that it is subordinated to depositors. In fact, it does not even satisfy the boldface type requirement . *See* 12 C.F.R. § § 204.2(a)(1)(vii)(C); 217.1(f)(3)(i).



NON-NEGOTIABLE CERTIFICATE

Golden Pacific National Bank
241 CANAL STREET, NEW YORK, N.Y. 10013

12712

19

$

THIS CERTIFIES THAT
NAME

HAS DELIVERED TO GOLDEN PACIFIC NATIONAL BANK

PAYABLE TO THE HOLDER ON WITH INTEREST AT % PER ANNUM FROM DATE.

VOID

6/8/8

PAYMENT OF PRINCIPAL AMOUNT WILL BE MADE ONLY UPON PRESENTATION AND SURRENDER OF THIS CERTIFICATE PROPERLY ENDORSED SUBJECT TO ABOVE SPECIFIED TERMS. NO INTEREST WILL ACCRUE HEREON AFTER THE MATURITY DATE HEREOF.

IF THIS CERTIFICATE IS ISSUED TO TWO PAYEES, IT IS UNDERSTOOD AND AGREED THAT THE OWNERSHIP HEREOF SHALL VEST IN THE PAYEES AS JOINT TENANTS WITH RIGHT OF SURVIVORSHIP AND IS PAYABLE TO EITHER OF THEM OR THE SURVIVOR AND THAT EACH PAYEE IS AGENT FOR THE OTHER TO GIVE OR RECEIVE ANY NOTICE, OR TAKE ANY OTHER ACTION AFFECTING THIS CERTIFICATE. THIS CERTIFICATE IS SUBJECT TO THE TERMS AND CONDITIONS DESCRIBED IN THE AGREEMENT BETWEEN THE ABOVE-NAMED CUSTOMER AND THE BANK DATED , 19

GOLDEN PACIFIC NATIONAL BANK

CUSTOMER'S SIGNATURE

AUTHORIZED SIGNATURE

NON-NEGOTIABLE CERTIFICATE

Golden Pacific National Bank

241 CANAL STREET, NEW YORK, N.Y. 10013

12712

, 19

$

THIS CERTIFIES THAT ______________________
NAME

HAS DELIVERED TO GOLDEN PACIFIC NATIONAL BANK ______________________

VOID

6/8/85

PAYABLE TO THE HOLDER ON ______________________ WITH INTEREST AT ______ % PER ANNUM FROM DATE.

PAYMENT OF PRINCIPAL AMOUNT WILL BE MADE ONLY UPON PRESENTATION AND SURRENDER OF THIS CERTIFICATE PROPERLY ENDORSED SUBJECT TO ABOVE SPECIFIED TERMS. NO INTEREST WILL ACCRUE HEREON AFTER THE MATURITY DATE HEREOF.

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GOLDEN PACIFIC NATIONAL BANK

____
CUSTOMER'S SIGNATURE

____
AUTHORIZED SIGNATURE

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